Supreme Court, U.S.
FILED
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No. _____

IN THE
Supreme Court of the United States

RAYMOND C. PERSIK,
Petitioner

v.

KEN SALAZAR, COLORADO ATTORNEY GENERAL,

and

PHILLIP B. J. REID, SPECIAL AGENT IN CHARGE, FEDERAL BUREAU OF INVESTIGATION – DENVER DIVISION
Respondents

On Petition For Writ of Certiorari
To The U.S. Court of Appeals for the 10th Circuit

PETITION FOR A WRIT OF CERTIORARI

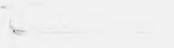
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QUESTIONS FOR THE US SUPREME COURT

1. Will this Court remand this Case to the 10th Circuit with an Order for the 10th Circuit to subsequently remand the case to the district court for the issuance of a Writ of Mandamus compelling the F.B.I and/or the Colorado A.G. to take affirmative action in placing an end to an alleged 9 year plus conspiracy, and affording the petitioner the opportunity to finally provide evidence to the F.B.I.?

2. As a means to afford law enforcement, and the court systems the maximum number of protections for real, and potential male and female victims, of domestic violence, will this Court adopt a modified version of the "State Danger Theory" discussed in *Greene v. Plano*, 227 F. Supp.2d 615 (E.D.Tex, 2002)?

3. Will this Honorable Court consider all the facts embodied in the civil rights portion of this extremely complex series of litigation actions (cases), and subsequently review the lower court's dismissal, and the 10th Circuit's affirming the dismissal, of this case, for an abuse of discretion pursuant to F.R.Civ.P., Rule 8(a)?

4: Will this Honorable Court remand this case with directions for the lower court to permit the petitioner to file a different class action amended complaint, than the one tendered on February 15, 2005, which will utilize both an alleged criminal link matrix and activities matrix, learned from a military intelligence officer in December 2005, to clarify the alleged relationships, and roles of the named defendants, in their former supervisory positions over state, and federal officers, capable of taking affirmative action?

5. Can this Court wait to review this Petition until the 9th Circuit has the opportunity to review the Appellant's

Amended Opening Brief, and the record, from the district court for the district of Western Washington, in *Persik, et. al. v. Group Health, Inc., et. al.*, *infra*, which is the pro life portion of this complex litigation, and will this Court subsequently, at the time all cases are at this Court, revisit *Persik v. Colorado, infra, Persik v. Colorado State University, infra,* and *Persik v. Manpower Inc., infra*, since the cases have their roots in the same alleged initiation of wrong doings: "The loss of Angel Persik, on September 27, 1994, followed by the subsequent exploitation of the petitioner"?

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1. *Raymond C. Persik v. Ken Salazar, Colorado Attorney General and Phillip B.J. Reid, Special Agent in Charge, Federal Bureau of Investigation – Denver Division,* 05-1276, (U.S. 10th Circ, 14 March 2006, ORDER)

2. *Raymond C. Persik v. Ken Salazar, Colorado Attorney General and Phillip B.J. Reid, Special Agent in Charge, Federal Bureau of Investigation – Denver Division,* 04-WM-1120, (D.C. Colo, 15 April 2005, ORDER)

Administrative Agencies

3. February 10, 2004. Federal Bureau of Investigation (F.B.I.) – Denver District, informational complaint and informal meeting in the lobby with a woman perceived to be a female F.B.I. agent. **Three unknown named agents** escorted the petitioner, [Persik], from the 18th floor, of the federal building. Thus, the agents denied agency action and afforded the petitioner the right of redress. (*Bivens v.* ***Six Unknown Named Agents*** *of the Federal Bureau of Narcotics*, 91 S.Ct. **1999** (1971)).

4. February 18, 2004. Colorado Governor Bill Owens and Colorado Attorney General Mr. Ken Salazar are the 1st two parties listed on the Certificate of Mailing of the Motion Directing the Clerk (of the U.S. Supreme Court) to file the

Petition for Certiorari in *Persik v. Colorado State University*, 541 U.S. 990 (2004).[1]

5. April 25, 2001. Federal Bureau of Investigation (FBI) – Denver District, Informational Complaint. No agents met with petitioner on this day, *See* Amnd Cmplt, Exhibit 4.

6. August 25, 2000. Investigational request given to the United States Attorney's Office in Denver, Colorado, *See* Amnd-Cmplt, Exhibit 3.[2]

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[1] Petitioner maintains that allegations of alleged cruel and unusual punishment, are contained in the document. Thus, Mr. Persik relied on Mr. Salazar's responsibilities, as supervisor for legal issues, to end such alleged cruelty. Furthermore, as a U.S. Army Reserve officer, and resident of Colorado, on June 1, 2004, the petitioner maintains that he was forbidden from initiating legal action against Governor Bill Owens.

[2] Petitioner feared personnel, on behalf of ex parte defendants Monica McCallie, Mollie Schreibman (Oster), et. al., removed the complaint from the office immediately following [Persik] stepping out of the office at 16:30 to make a copy of the document, based upon the observed fact of a new secretary accepting the document upon [Persik]'s return.

BASIS FOR JURISDICTION OF THE UNITED STATES SUPREME COURT

1. The U.S. Court of Appeals for the 10th Circuit denied the petitioner's appeal on March 14, 2006. No Petition for rehearing was filed in the 10th U.S. Court of Appeals.

2. 50 USCS Appx § 512. Territorial application; jurisdiction of courts; form of procedure states: "(2) When under this Act [50 USCS Appx. §§ 501 et seq.] any application is required to be made to a court in which no proceeding has already been commenced with respect to the matter, such application may be made to any court". Following March 14, 2006, the petitioner served on active duty from 4 June – 17 June to complete phase 3 of a field grade officer, common core course, at Ft. Hunter-Liggett, California and June 27 & 28, 2006 at Ft. Lewis, Washington to undergo a command directed evaluation. In addition, 50 USCS Appx §§ 516 stops the clock on March 21, 2006, the day before Human Resource Command, 1 Reserve Way, St. Louis, Missouri, issued orders for attendance at this course in ORDERS T-03-603510, and the second set of orders stops the clock on June 19, 2006 when the orders were published from the Psychological and Civil Affairs Command, 1 Desert Storm Way, Ft. Bragg, N.C. Thus, Petitioner is entitled to an extension of time of 98 days pursuant to these two sections of the United States Code: 82 days pursuant to 50 USCS Appx §§ 516 and 16 days pursuant to 50 USCS Appx §§ 525.

Pursuant to 50 USCS § 511, n. 2, "Persons covered by Act". The term "military service" as used in Soldiers' and Sailors' Act of 1940 (50 USCS Appx §§ 501-590) requires serviceman to be on active duty; concept includes one absent from duty for lawful cause and excludes from protection of statute one absent from duty for other than lawful cause, such

as desertion. *Driver v. Driver*, 36 Conn Supp 229, 416 A2d 705 (1980)."

3. Pursuant to 50 USCS Appx § 521, n 5, "'Plaintiff' and 'defendant' in 50 USCS Appx §§ 501 et seq. § 201 should be given liberal construction." *In Adoption of a Minor*, 78 US App DC 48, 136 F2d 790 (1943).

4. Pursuant to 50 USCS Appx §§ 525. Statutes of limitations as affected by period of service. "The period of military service shall not be included in computing any period now or hereafter to be limited by any law, regulation, or order for the bringing of any action or proceeding in any court … by or against any person in military service…" "Purpose of 50 USCS Appx § 525 is to extend time in which action could be brought by or against person in military service." *Van Heest v. Veech*, 58 NJ Super 427, 156 A2d 301 (1959). "50 USCS Appx § 525 should be liberally construed to protect rights of persons who have been obliged to drop their own affairs to take up burdens of nation." *Shell Oil Co. v. Industrial Com.*, 407 Ill 186, 94 NE 2d 888 (1950). "**Limitations provision of 50 USCS Appx § 525 is mandatory and not discretionary**." *Estate of Wolf Commissioner*, 264 F2d 82 (1959). Finally, The petitioner cites: "the SSCRA makes no distinction between those who **volunteer** for **active service** and those who involuntarily are called to active duty from the Reserve components", *Contemporary Applications of the Soldiers' and Sailors' Civil Relief Act*, by Major James P. Pottorff, 132 Mil. L. Rev. 115, 118 (1991).

5. U.S. Supreme Court Rule 13 allows for 90 days to file a Petition for Writ of Certiorari. Therefore, the Petition for Writ of Certiorari would normally be filed on, or before, Monday, 12 June 2006. However, the Petitioner was on federal active duty for 14 days commencing Sunday, 4 June 2006, and Human Resources Command (HRC-St.Louis) published the Orders on March 22, 2006; thus, effectively

stopping the clock on March 21 until completion of duty on Saturday, June 17, 2006 pursuant to 50 USCS Appx §§ 516 & §§ 525. Additionally, as stated in ¶ 2, supra, [he] was also on orders on 27-28 June and the order was published on 19 June 2006.

Therefore, this petition is timely filed if postmarked within the 98 additional days after the normal deadline of June 12, 2006. Therefore, this Petition is timely filed on, or before, Friday, September 18, 2006.[3]

6. The United States Supreme Court can review this decision pursuant to U.S. Supreme Court Rule 10(a), if: "a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; ... or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise for the exercise of this Court's supervisory power", and U.S. Supreme Court Rule 10 (c)"... or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court".

7. The petitioner maintains that no notifications are required by U.S. Supreme Court Rule 29.4(b) or 29.4(c).

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[3] The petitioner successfully argued the use of the SSCRA, at the U.S. Supreme Court level, in *Persik v. Colorado State University*, 542 U.S. 960(#03-1278, 541 U.S. 990, 2004), filed on January 22, 2004. The SSCRA allowed for a 236 day extension of the filing deadline in the case. Petitioner utilizes 50 USCS Appx §§ 516 because the vast majority of his personal time was spent completing Intermediate Level Education (ILE), Phases 2 in addition to preparing, and subsequently attending ILE, Phase 3.

CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES AND REGULATIONS

1. Pursuant to U.S. Supreme Court Rule 14 (f), the Appendix, A-26 to A-101, contains the text of most provisions required. Pursuant to U.S. Supreme Court Rule 33.1(d), "verbatim quotations required under Rule 14.1(f), if set out in the text of the brief rather in the appendix, are also excluded" from the page limit. Therefore, the petitioner subtracted 9 pages from the total page count for citations cited in this section and the previous section, (50 USCS §§ 501 et. seq.). Therefore, the petition is within length limitations.

2. Amendment I, U.S. Constitution. A-34

3. Amendment IV, U.S. Constitution. A-35

4. Amendment V, U.S. Constitution. A-35

5. Amendment VI, U.S. Constitution. A-35

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12. 10 USCS § 331. Federal aid for State governments. A-39

13. 10 USCS § 333 (1999) Interference with State and Federal law. A-39

14. 10 USCS § 380. Enhancement of cooperation with civilian law enforcement officials. A-40

15. 10 USCS § 814. Art. 14. Delivery of offenders to civil authorities.

(a) Under such regulations as the Secretary concerned may prescribe, a member of the armed forces accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial.

(b) When delivery under this article is made to any civil authority of a person undergoing sentence of a court-martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court-martial, and the offender after having answered to the civil authorities for his offense shall, upon the request of competent military authority, be returned to military custody for the completion of his sentence.

16. 10 USCS § 878. Art. 78. Accessory after the fact. Any person subject to this chapter who, knowing that an offense punishable by this chapter has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a court-martial may direct.

17. 10 USCS § 881. Art. 81. Conspiracy. Any person subject to this chapter who conspires with any other person to commit an offense under this chapter shall, if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court-martial may direct.

18. 10 USCS § 911. Art. 111. Drunken or reckless operation of a vehicle, aircraft, or vessel:

(a) Any person subject to this chapter who-

(1) operates or physically controls any vehicle, aircraft, or vessel in a reckless or wanton manner or while impaired by a substance described in section 912a(b) of this title (article 112a(b)), or

(2) operates or is in actual physical control of any vehicle, aircraft, or vessel while drunk or when the alcohol concentration in the person's blood or breath is in excess of the applicable limit under subsection (b), shall be punished as a court-martial may direct...

19. 10 USCS § 917. Art. 117. Provoking speeches or gestures. Any person subject to this chapter who uses provoking or reproachful words or gestures towards any other person subject to this chapter shall be punished as a court-martial may direct.

20. 16 USCS § 917. Congressional findings. A-40

21. 18 USCS § 241. Conspiracy against rights. A-40

22. 18 USCS § 242. Deprivation of rights under color of law. A-41

23. 18 USCS § 1341. Frauds and swindles. A-42

24. 18 USCS § 1512. Tampering with a witness, victim, or informant. A-42

25. 18 USCS § 1513. Retaliating against a witness, victim, or an informant. A-45

26. 18 USCS § 1514. Civil action to restrain harassment of a victim or a witness. A-45

27. 18 USCS § 1584. Sale into involuntary servitude. A-46

28. 18 USCS § 1951. Interference with commerce by threats or violence. A-46

29. 18 USCS § 1952. Interstate and foreign travel or transportation in aid of racketeering enterprises. A-47

30. 18 USCS § 1961. Definitions. A-48

31. 18 USCS § 2241 et. seq. Aggravated sexual abuse. A-52

32. 18 USCS § 2242. Sexual abuse. A-54

33. 18 USCS § 2244. Abusive sexual conduct. *numbered wrong in A-55

34. 18 USCS § 4241. Determination of mental competency to stand trial. A-55

35. 22 USCS § 6401. Findings; policy; International Religious Freedom. A-56

36. 22 USCS § 7101. Purposes and findings; Trafficking Victims Protection. A-59

37. 28 USCS § 1733. Government records and papers; copies A-65

38. 42 USCS § 1981. Equal rights under the law. A-65

39. 42 USCS § 1983. Civil action for deprivation of rights. A-66

40. 42 USCS § 1985. Conspiracy to interfere with civil rights. A-67

41. 42 USCS § 1986. Conspiracy to interfere with civil rights. A-68

42. 42 USCS § 2000b-2. Personal suits for relief against discrimination in public facilities. A-69

43. 42 USCS § 2000 e. Definitions A-69

44. 42 USCS § 2000e-2. Unlawful employment practice. A-72

45. 42 USCS § 2000e-3. Other unlawful employment practices. A-79

46. 42 § 2000e-5. Enforcement provisions. A-80

47. 42 USCS § 2000bb. Religious Freedom Restoration Act of 1993. Congressional findings and declaration of purposes. A-83

48. 42 USCS § 2000bb-1. Free exercise of religion protected. A-84

49. 50 USCS Appx §§ 501 et. seq. Soliders' and Sailors' Civil Relief Act of 1940 (SSCRA) A-85 – A-88

50. 50 USCS Appx §§ 525. Statutes of limitations as affected by period of service. A-88

51. 50 USCS § 1801. Definitions; Electronic Surveillance. A-89

52. C.R.S. 13.25-125.5. Libel and slander – self publication. A- 91

53. C.R.S. 13-6-106 (2002) Original Criminal Jurisdiction. A-90

54. C.R.S. 13-25-131 (1999) Civil actions – sexual assault – certain evidence presumed irrelevant. A-91

55. C.R.S. 18-1-602 (1999) Behavior of Another. A-92

56. C.R.S. 18-1-603 (1999) Complicity. A-92

57. C.R.S. 18-1-606 (2002) Criminal Liability of Corporations. A-92

58. C.R.S. 18-1-709 (2002) Entrapment. A-93

59. C.R.S. 18-2-201 (2002) Conspiracy. A-94

60. C.R.S. 18-2-206 (2002) Penalties for criminal conspiracy – when convictions barred. A-95

61. C.R.S. 18-3-207 (2002) Criminal extortion - aggravated extortion. A-96

62. C.R.S. 24-5-101. (2002) Effect of criminal conviction on employment rights. A-97

63. 35 P.S. § 780-112. Records of distribution of controlled substances. A-98

64. 35 P.S. § 780-113. Prohibited acts; penalties. A-99

65. RCW 9.02.110. Right to have and provide. A-100

66. RCW 9.02.120. Unauthorized abortions – Penalty. A-100

67. 18 V.S. § 7614 et. seq. (2000). Psychiatric examination. A-100

STATEMENT OF THE CASE

1. Freedom, in the United States of America, is over if this Court does not take immediate action. The petitioner, [Persik], alleges: [his] unborn son was sacrificed by the procedure of abortion on September 27, 1994, as a means to sell him into Involuntary Servitude, and Peonage, in violation of 18 USCS § 1584 and 42 USCS § 1994, respectively. [*See* Amd Cmplt at 28, ¶ 1] Furthermore, the petitioner alleges, in this Case, that the attempted state and federal cover-up, resulted in SEVERE SECURITY VIOLATIONS within federal courts[4] and on United States military installations. [*See* Amd Cmplt at 6, ¶ 5].

2. Following an alleged illegal arrest, on January 28, 1999, Persik began experiencing a very high occurrence of alleged violations of [his] civil rights by ex-parte defendants to this case. Thus, on Friday, May 28, 1999, [Persik] attempted to speak to officials at the Larimer County Courthouse, in Ft. Collins, Colorado to view the alleged illegal, "arrest warrant affidavit" from January 28, 1999, and [he] wanted to speak with a Larimer County district attorney. This followed Persik placing a "love letter" in the United States mail to a person with whom [he] wanted no further contact in [his] life. In February and March 1999, Persik discussed the possibility of the use of a radio frequency technology to influence the thought process with Dr. Eugene Deardorff and Dr. Michael Schurr. Persik following the and [he] was concerned this technology was used to induce the mailing of the letter to Ms. Schreibman on, or about, Tuesday, May 25, 1999. The petitioner, [Persik], discovered the Larimer County Courthouse closed early, on May 28, 1999, in observance of the Memorial Day holiday weekend.

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[4] The petitioner has yet to discuss the security holes at Federal Courts that [he] is referring to.

3. Persik was arrested again on June 2, 1999 as part of an alleged confidence game that [he] wanted nothing to do with. Following 45 days in the Larimer County Detention Center, for the sending of the "Love Letter", against [his] natural will, *supra* at Case, ¶ 2, the petitioner began learning the legal system, and [he] filed his first Colo. Rule Crim. P. 35(c) motion to withdraw a guilty plea entered into on February 1, 1999 for saying "Happy New Year" to Ms. Mollie Schreibman on January 1, 1999. On a trip to North Platte, Nebraska in August 1999, an unknown man stated to Persik, at a gas station in North Platte, NE, that: "If you open up what men did to you, you will need plastic surgery on your face when men get done with you".

4. Persik previously argued the 2d 35(c) Motion to this Court in *Persik v. Colorado*, 538 U.S. (#02-875, 537 U.S. , 2002). The petitioner, [Persik], maintains that a radio frequency was repeatedly utilized to influence [his] thought process, not control [his] thoughts, since at least July 21, 1997, at the intersection of US 34 and US 36 in Rocky Mountain National Park, [*See* Amd Cmplt at 22 ¶ 3, Tendered Amd Cmplt at 20 ¶ 59], and [Persik] further maintains this technology was used with the acquiescence of selected federal and state authority. Furthermore, [Persik] maintains that this technology was previously used to place [him] into unwanted sexual contact with at least one woman, in violation of 18 USCS § 2241 et seq, [A-52 – A-55], and the unknown perpetrator allegedly attempted to induce unwanted feelings with at least one other ex-parte woman to this case, in Ft. Collins, Colorado, Ms. Kendra Soderberg[5] in August 1998.

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[5] The petitioner will file a civil action for rape pursuant to the correct California Penal statute if [he] is forced to any woman in marriage, such as Ms. Soderberg, that he does not share mutual feelings of love, trust and respect for. A forced marriage would be a violation of the Covenant of Civil and

5. Following the use of the technology, mentioned *supra* at ¶ 2, on Andrews Air Force Base, on the same afternoon in late October 1999, that Mrs. Hillary Clinton was exiting her aircraft, Persik began getting nervous that the United States had severe security holes on our military establishments. [Amd Cmplt at 6, ¶ 5 and Tendered Amd Cmplt at 11, ¶ 31].

6. Thus, following Persik's military space available flight from Andrews AFB, Maryland to McChord AFB, Washington, [he] began attempting to discuss this issue with U.S. Federal authority, namely the Federal Bureau of Investigation – Seattle Division. Persik was instructed to discuss the matter with the F.B.I. – Denver Division or local Ft Collins, Colorado office of the F.B.I. (Washington State was the petitioner's home from 1989-1999.)

7. While in Seattle, WA, Persik attempted to address a separate equal employment issue with the Seattle Office of the U.S. Federal EEOC, and [he] experienced difficulties obtaining documents and filing procedures, during a 5 minute conversation. Specifically, Persik was told that: "the issue [he] was facing went further back than the problems experienced in Colorado"; therefore, Persik maintains that [she], the EEOC Officer, was referring to Ms. Monica McCallie's September 27, 1994 near late term abortion, and [her] November 1998 threat against Persik that [he] took as a death threat. Additionally, during the same time period, November-December 1999, Persik experienced difficulties with Officer Lundy, of the Denver Federal Protective Service, outside of a U.S. Federal Building in downtown Seattle, Washington.

Political Rights, 999 UNTS 171, Article 23 § 3 which prohibiting forced marriages.

8. Thus, in late December 1999, Persik returned to Colorado to begin a long COMPLEX, legal battle which [he] broke into 4 components: (1) Equal Protections, (2) Equal Employment Opportunity, (3) Civil Rights and (4) a fight against abortion in an attempt to eventually fight the U.S. Supreme Court's January 22, 1973 precedent decision in *Roe v. Wade*, 410 U.S. 113 (1973).

9. The petitioner attempted numerous avenues in efforts to stop the purported violence and crimes against [him] by ex-parte persons to this case. On August 18, 2000, Persik was escorted off the campus of the University of Colorado, and suspended from entering the campus again for 1 year which Persik maintains was to prevent timely filing of future Equal Employment Opportunity Case against Colorado State University. On August 25, 2000, Persik filed an investigational request with the U.S. Attorney's office in Denver, Colorado, [Amd Cmplt, Exhibit 3] Additionally, Persik met with the Colorado Lieutenant Governor during the summer of 2000 in an effort to curb the alleged ex parte, third party stalking allegedly being committed as described in *Hanzo v deParrie*, 953 P.2d 1130,1135 (Or.App. 1998), [Amd Cmplt at ¶ 40, ¶10, Tendered Amd Cmplt at 42 ¶ 148], and the purported continuous harassment by both Colorado State and U.S. Federal authority. (Persik was in the Inactive Missouri Army National Guard during the period of April 10, 1999 and March 21, 2002.)

10. As discussed in previous petitions to this Court, [Persik] maintains that while visiting family over Christmas 2000, [he] was illegally mugged and subsequently drugged into a coma on the day Mr. John Ashcroft was appointed, December 22, 2000 as a means of obstructing, by prevention, the Federal EEOC meeting set in Denver, Colorado, for January 9, 2001, and in violation of sections of 18 USCS § 1512 and § 1513. [*See* A-42 A-45] Persik maintains that exparte defendants Ms. Kristen Morrow, Mr. Walter

Schreibman, et. al., were aware, and possibly arranged, or the alleged illegal activity was arranged on their behalf.

11. On May 5, 2001, Persik explained [his] allegations of alleged unlawful drugging at Carlisle hospital, in Carlisle, Pennsylvania, with a medical doctor, conducting a 5- year quint physical, in St. Joseph, Missouri. The drug utilized in the emergency room did not appear in Persik's medical records [*See* 35 P.S. § 780-112 and 35 P.S. § 780-113, A-98 - A-99] Once again, Persik asks this Court to connect the events. The medical doctor, and military officer, did not appear very happy.

12. On August 28, 2001, 14 days before the events of September 11, 2001, Persik rented a vehicle from Enterprise Rental Car in Boulder, Colorado to discuss the situation, in Colorado, with [his] best former commander, COL Heldenbran in Jefferson City, Missouri. Persik, as previously stated, was not able to keep the rental vehicle an additional day to go to Ft. Carson, Colorado's G-2 section to discuss [his] theory of National Security problems which [he] alleged were being caused from U.S. Federal Government agencies protecting *Roe, supra*, and the infrastructure that has allegedly been created from the taking on innocent life in the United States..

13. On February 10, 2004, Persik filed a second written complaint with the Federal Bureau of Investigation – Denver Division which involved the allegations described in the record of this Case. While meeting with a perceived federal agent, in the lobby of the 18th Floor, Persik was escorted out of the building by three unknown, named agents. Persik asks this Court to review *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 91 S.Ct. 1999 (1971). One of the agents told Persik to "talk to the army" about the event; therefore, Persik alleges that either the F.B.I. was warning [him] that there would be no means of redress, or

they were in fact using the three unknown agents in an effort to warn Persik that [he] was in fact being victimized by the very government that [he] is sworn to protect.

14. On February 18, 2004, Persik served a copy of the Motion Directing the U.S. Supreme Court to file the case in *Persik v. Colorado State University*, 542 U.S. 916 (#03-1278, 541 U.S. 990, 2004) after explaining to U.S. Supreme Court clerks the repulsive manner in which Persik perceived numerous men and women to be blocking all [his] legal actions on behalf of the alleged sickest women [he] has ever met in [his] life, ex-parte Kristen Morrow, Kendra Soderberg, Jill Schroeder, Mollie Oster and Persik's ex-wife Monica McCallie. Persik maintains that Defendant Ken Salazar was chief counsel, as the Colorado Attorney General, for the State of Colorado.

15. Upon the State of Colorado continuing to take no action, and severe harassment, and alleged violations of Amendment IV, U.S. Constitution, Amendment VIII, U.S. Constitution and Amendment XIV, U.S. Constitution, Persik filed the civil action against Defendants Mr. Reid and Mr. Salazar for alleged failure to supervise or properly train their staffs, on June 1, 2004.

16. On November 23, 2004, Persik appeared via telephone for a Scheduling Conference where Magistrate Watanbe instructed Persik to notify [his] commander not to interfere with the action in the Court which Persik stated COL John Ley was not interfering with; however, numerous pay errors created the necessity for Persik to appear via teleconference.

17. On December 22, 2004, Persik discussed the use of technology in the U.S. Federal Courthouse that is capable of influencing the thought process in violation of numerous international treatises as well as Amendment VIII, U.S. Constitution. Persik is repeatedly lead to believe that federal

and state authority are protecting the alleged use of this technology for the pecuniary benefit of Ms. Kristen Morrow originally of Elkhorn, Nebraska. Persik maintains that he discussed this technology with brilliant scientists, and in March 1999, Dr. Michael Schurr, [Mickey], stated: "You are a scientist, you know all the ways we can influence the thought process". Ms. Kristen Morrow was either secretary, or treasurer, of the Young Republicans on the campus of the University of Nebraska at Lincoln [UNL] when Persik knew her in 1996. Ms. Stacey Tweed, originally of Cold Springs, Minnesota, and a fellow graduate student at UNL, warned Persik that Ms. Morrow was the type of woman who would "sleep with or do whatever it would take to get to the top", and to stay away from her. Persik alleged that the repeated use of the technology from July 21, 1997 to present, was in fact to help set Ms. Morrow up financially in [her] efforts to exploit [Persik], and Persik maintains that both federal and state authority should be involved in shutting down this system completely for the protection of both Persik and the general public. Finally, [Persik] alleges that Mr. Kurt Bohn told [him], in the elevator, when leaving the courthouse, that "if this technology existed, it would be stopped". Persik can testify under oath to this comment which Mr. Bohn later denied. During the Scheduling Order conference, Persik discussed [his] intentions of requesting Mr. John Ashcroft be called as a witness, and the magistrate stated that [he] would consider the request upon a good motion.

18. On January 21, 2005, Magistrate Judge Michael Watanabe conducted an update status conference, and [he] set a further update conference for March 16, 2005 which was later cancelled. [Persik] notified the magistrate of his locating the *Covenant of Civil and Political Rights*, 999 UNTS 171 (1966) which tied his entire theory together. Magistrate Judge Watanabe drafted recommendations for dismissal of the action following the status conference where Persik appeared via telephone from Evergreen AFB, AZ,

where [he] maintains that [he] was again threatened on the military installation, following the conference, to "love' Ms. Jill Schroeder, a former, and allegedly very abusive ex-girlfriend from Denver, Colorado.

19. Persik tendered an amended Complaint to the Court on February 15, 2006; however, Magistrate Watanabe denied the motion for leave to file the amended complaint. [Persik] maintains that this amended complaint is far more simple to read, and Persik does identify the alleged failure to supervise required in order for [him] to bring a 42 USCS § 1983 action in the Court against the named defendants.

20. The petitioner submitted a "MOTION to Appoint Expert witness pursuant to Federal Rules of Evidence, Rule 706", on March 17, 2005, to the lower district court, [D.C. Colo. Doc # 60], and [Persik] identifies the name of a desired expert witness in this document who could help the United States prevent this alleged form of sexual assault in the future. [Persik] maintains that with the advances in modern technology that eventually all local, state, and federal police, will need the communications equipment capable of combating this technology. Additionally, [Persik] maintains that colleges and universities will also need to identify the use of this technology to develop methods of preventing wealthy, or connected, individuals from illegally manipulating their way through the system.

21. Judge Walker D. Miller accepted the Magistrates Recommendations on April 15, 2005, [D.C. Doc # 63] and Persik appealed on June 14, 2005, [D.C. Doc # 65]

22. The three Judge panel of TYMKOVICH, McKAY, and BALDOCK, of the U.S. 10th Circuit, denied appellant's (petitioner's) request for an oral argument, and on March 14, 2006, the panel "AFFIRMED" the Honorable Judge Walker

D. Miller's, D.C. Colo, dismissal of this action, *infra* at A-3, ¶2.

ARGUMENT

Part I. Will this Court remand this Case to the 10th Circuit with an Order for the 10th Circuit to subsequently remand the case to the district court for the issuance of a Writ of Mandamus compelling the F.B.I and/or the Colorado A.G. to take affirmative action in placing an end to an alleged 9 year plus conspiracy, and affording the petitioner the opportunity to finally provide evidence to the F.B.I.?

1. The petitioner maintains that there was a multi-state, federal conspiracy against [him], since as early as February 14, 1990, when [he] was stationed at Ft. Lewis, WA, in violation of 42 USCS § 1983, § 1985, § 1986 and numerous other statutes and international treatises. [*See* Amd Cmplt at 2, Jurisdiction, Tendered Amd Cmplt at 1, ¶4]. Persik maintains that the alleged conspiracy led to "Obstruction of Justice" as discussed in *Construction and Operation of 'Willfulness' requirement of U.S.S.G. § 3C1.1 Pertaining to Obstruction or Impeding Administration of Justice*, Barbara J. Van Arsdale, J.D., 185 ALR Fed 493, citing, at 493, *U.S. v.* ***Bolden***, 279 F.3d 498, 185 A.L.R. Fed 787 (7th Circ, 2002). Subsequently, this alleged willful, obstruction of justice, by both federal and numerous state officials, resulted in alleged National security violations, due to the main issue of the September 27, 1994 abortion of Angel Persik. [*See Persik, et. al. v. Group Health Inc, et. al., infra*] Persik maintains that the subsequent exploitation of [his] life is not the intended focus of this petition, rather, [his] intent is to emplace a "safety net" for women, children and men surrounding the central theme of anti-domestic violence with

the sincere hope that this Court will one day, SOON, OVERTURN the January 22, 1973 decision in *ROE v. WADE*, 410 U.S. 113 (1973) that legalized the procedure of abortion. Thus, the increased necessity for our system to provide means of protection for OUR children and their parents, from abuse. Additionally, this petition will hopefully prevent the same alleged security holes from being exploited in the future.

2. The petitioner will be bold in his assertion that the alleged conspiracy, outlined *supra* at ¶1, was motivated to exploit the petitioner's life over the stated controversial abortion that the petitioner opposed with all his soul. *Roe, supra,* legalized this still controversial procedure. "To prove motive, evidence of a defendant's other crimes, wrongs, or acts may not have to be similar to the offense with which the accused is charged in order to be admissible,", *U.S. v Johnson*, 525 F.2d 999, cert denied 424 US 920. That is the case here; Defendant[s] did not participate in the act of the abortion; however, the abortion opened up the opportunities for the alleged wrongdoings or failure to supervise or train. In this case, Persik can clearly show the pattern of alleged racketeering by ex-parte defendants that could have been prevented if authority, under the overall supervision, of the named defendants, would have taken action as early as September 1997. However, again, if we refuse to take the allegations personally, and we choose to build our case law, the opportunity for this Country is unparalleled in the history of the U.S. since President Lincoln led this Nation to freeing the African American population from the gruesome human rights violation of slavery.

3. On July 17, 1990, while serving with 1-33 Armor Regiment, under the command of COL Ken Smith, the U.S. Army ordered the petitioner to 1-11 Field Artillery (FA), 199 IN BDE (MTZ), with 9th Infantry Division (ID) Orders 136-

709.[6] The petitioner requested to serve in Iraq with the XVIII[th] Airborne Corps, 82[nd] Airborne Division, which had an opening for a chemical officer; however, [he] was told that the 1-11 FA commander requested [him] by name. The address of Sarah Weddington, attorney of record in *Roe, supra*, was 709 14[th] Ave in Austin, TX. Also, C.R.S. 18-1-709 is Entrapment in CO. Furthermore, the address of the Women's Rights National Historic Park is 136 Fall Street; Seneca Falls, NY 13148. Thus, simply put, Persik alleges that [his] first unborn child, if a son, was sacrificed for women's, and minority equal employment rights, as well as other women's issues, which [he] does support. 28 USCS § 1733 (b) allows for the introduction of this order as evidence. Pursuant to 28 USCS § 1331, District Courts, Jurisdiction, n. 87, "Federal courts have jurisdiction to review claims which allege that the armed services have failed to follow their own regulations." *Febus Nevarez v. Schlesinger, D.C. Puerto Rico*, 440 F.Supp. 741 (1977)..

4. Persik's ex-wife, McCallie, was from Lima, Peru, South America. In ¶3 above, Persik saw the 1[st] BN, 33[rd] AR through the M1 transition course as the acting operations officer in the summer of 1990. Persik cites 53A Am Jur 2d §265 Unlawful Command Infuence and § 263 Power and Procedure to convene: "The President of the United States, by virtue of the inherent power residing in him under the Federal Constitution, may, ... convene a general court-martial, *United States v. Smith*, 197 U.S. 386. Persik married McCallie in March 1986, or 3-86. Her bus, to the University of WA Health Center, was #197, and the couple divorced in 1997.

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[6] The petitioner firmly believes this was not a quality, or typical, military person that may have assisted in arranging the alleged wrongdoing mentioned.

5. In December 2005, Persik discovered compelling evidence leading [him] to believe [his] previous conspiracy theory is correct pertaining to surveillance pursuant to 50 USCS § 1801, 10 USCS § 911, *supra* at 9, ¶ 18, the *Convention for the suppression of unlawful acts against the safety of civil aviation, infra* at A-31 and other treatises. Persik can provide a very concise amended Class action complaint, to the court, upon remand, or [he] could simply meet with appropriate authority with the officers in the former departments of the named defendants in this case. Additionally, [Persik] states the fact that former Secretary of State Mr. Colin Powell was in Lima, Peru, S.A. on the morning of 9-11-01. The M1 Abrahams battle tank is assembled in Lima, Ohio. Thus, again, Persik maintains that [his] son was sacrificed for an equal employment opportunity project, and the clear pattern of 1000's of coincidences is in place for [him] to obtain his freedom and help develop the system.

6. Thus, Persik asks if this Court can still issue an order of Mandamus pursuant to *National Wildlife Federation (N.W.F.) v. The United States of America, et. al.*, 626 F. 2d 917 (1980), or to state this in a clearer manner, will this Court overturn the 10th Circuit's refusal to issue Mandamus due to their precedence in *Roberts v. Hartz*, 113 Fed.Appx. 306, 306 (10th Cir, 2004)? At 917, *N.W.F., supra*, the court states: "remedy of mandamus is not precluded because the federal official at issue is the President of the United States. 28 U.S.C.A. § 1361". Therefore, Persik maintains that mandamus is appropriate for officers in charge of their respective departments at lower levels of state and federal governments, and the American people have the right to have this statutory right of redress available.

7. In addition, the petitioner feared possible surveillance, pursuant to 50 USCS § 1801, *supra*, occurred as early as September or October 1998 at Colorado State University and

[his] home, and this alleged surveillance continued while working for Manpower at CU Wardenburg Health Center in February – March 2000 which allowed for the alleged violations of C.R.S. 13-25-131 (1999). Civil actions – sexual assault – certain evidence presumed irrelevant. and 18 USCS § 2242 (2)(A) Sexual Abuse, et. seq. [See A-91 and A-52 – A-55]. Additionally, 1801 L Street is the address of the main office of the Federal EEOC in Washington, D.C. Persik maintains that this street address matches the alleged surveillance is tied to [his] theories of security problems in military bases and courthouses mentioned supra in this brief.

8. Persik also cites *Herman McVay v. United States*, 481 F.2d 2d 615 (1973) as a major concern for the pattern analysis [he] performed in solidifying [his] theories. Persik will not comment further on this subject at this time.

Part 2: As a means to afford law enforcement, and the court systems the maximum number of protections for real, and potential male and female victims, of domestic violence, will this Court adopt a modified version of the "State Danger Theory" discussed in *Greene v. Plano*, 227 F. Supp.2d 615 (E.D.Tex, 2002)?

1. The petitioner again restates that [he] alleges this conspiracy, is in violation of: 42 USCS § 1981, § 1983, § 1985, § 1986, 2000 e et. seq., and numerous federal criminal codes, such as 18 USCA § 241, § 242, § 1341, § 1512, § 1513, § 1514, § 1584, § 1951, § 1952 and § 1961. In addition, the petitioner alleges numerous violations of sections of C.R.S., outlined *infra* A-90 - A-97, as well as Amendment IV, VIII, XIII and XIV, U.S. Constitution. The key is that ex-parte defendants, by their own words and actions, intentionally victimized Persik as a means to allegedly show men what domestic violence felt like. Specifically, Persik is referring to the intentional sick feeling, supported by actions, that [he] could not escape the violence

of the abusers. Ex parte defendants, such as Ms. Jennifer Seymour, clearly stated: "[You] are the kind of kind man that women like me want to have beaten", January 1998.

2. In order to clarify a point, the petitioner skips forward of the events surrounding this case. On June 16, 2006, the petitioner tolerated [his] last straw, with the current event, while eating at Ft. Hunter-Liggett, California. [Persik] was called "Fancy" by either a fellow major, or a lieutenant colonel, in the U.S. Army Reserve. "Fancy" is the name of a prostitute in a well known "Reba" song. This is not acceptable behavior for any State or the U.S. Federal Government to condone. Persik states this for a good reason.

3. Persik cites *United States v. Morrison*, 529 U.S. 598 (2000) at 633 to bring the idea together of the need to adopt a judicial theory similar to the "State Danger Theory" discussed in *Green v. Plano*, LSD, 227 F.Supp.2d 615 (E.D.Tex 2002) at 616. Persik maintains that here, in this case, that numerous "state actors" failure to act, coupled with defendants failure to take notice, or treat the situation, with the necessary manpower, via supervision and training, resulted in excess of 9 years of violence against Persik that can be utilized today for the benefit of victims of domestic violence.

4. In *Morrison, supra*, at 633, the Court sites the Colorado Supreme Court Task Force on Gender Bias in the Courts, Gender & Justice in the Colorado Courts 91 (1990), and Persik maintains that Colorado Governor Bill Owens named March 2004 "Domestic Violence Awareness Month" upon the U.S. Supreme Court's Mr. Jeff Atkins filing the petition in *Persik v. Colorado State University, infra.* Persik again maintains that ex-parte Monica McCallie set [him] up to be exploited following the loss of [his] unborn son as early as February 14, 1990 when she gave [him] a mug with a beaver stating "It's just one damn project after another".

5. Thus, together WE can build the system instead of simply saying domestic violence needs help. Persik maintains that numerous women now use the patterns of violence described in *Hernandez v. Ashcroft*, No. 02-70988, 14905 (October 7, 2003). The purported violence starts with the woman's obsession on a university campus, and off campus, and the abuse of the university's equal employment system, to stagnate their victim. The alleged stalking escalates to the scary mechanism of tracking their alleged "love' down and promising not to hurt [their] wishful boyfriends again, as described in *Hernandez,* at 14906, for women. To overcome nearly a century of work by honest, hard working American women, Persik utilizes this example to beautify and further these wonderful women's work instead of having women regress.

6. Persik cites *Lewis v. Kendrick*, 944 F.2d 949 (1st Circ, 1991) to clarify his allegations. At 949, the Court states: "On Rehearing Aug. 1, 1991, Suit was brought under civil rights statute alleging, inter alia, false arrest, and asserting pendent state claims against police officers for false imprisonment and against city for negligence." In November 1992, Persik saw "A Few Good Men" in Lawton, Oklahoma with fellow officers. Fellow Captain Rick Taylor shared Persik's fears concerning the election of the pro choice President Bill Clinton. In the movie, the guilty lieutenant was Lieutenant Kendrick, and Ms. **Kendra** Soderberg, who met Persik's ex-wife in May 1998, was one of the individuals who provided alleged felonious lies to authority that go beyond sick. Persik maintains that McCallie, and Ms. Kristen Morrow, set the people to provide the allege fraud intentionally for the alleged "Confidence game".

7. A "Confidence game" is any swindling operation in which advantage is taken of confidence reposed by the victim in the swindler, ***McBride*** *v. People of the State of Colorado,*

248 P.2d 725 (**Sept. 15**, 1952). Finally, Persik maintains that Nashville recording artists Martina McBride and Toby Keith performed in the bay area on dates this year to clearly provide credibility to Persik's theory. Persik attended Mr. Keith's on **Sept 15**, 2006, performance around the corner from [his] Moffett Field, California based 12th Psychological Operations Battalion Headquarters where Persik is the operations officer. In 8 Am Jur Proof of Facts (POF) 153, the "(1) foundation for admission of motion pictures, and (2) motion pictures of experiments. Persik alleges the "system" was set up for [him] again to get through because the Phoenix based Field Artillery unit [his] former unit, 1st Bde, 91st Div (TS), worked with was located in Phoenix, AZ where Ms. Morrow allegedly lives, and furthermore, [his] current unit, and the parent headquarters, the 7th POG, is located in building 153 at Moffett Federal Airfield. [Persik] maintains that this is not a coincidence, but a mechanism for [him] to obtain [his] freedom. The motion picture, "A Few Good Men' is one of many movies that Persik maintains [he] can introduce as evidence in a future Amended Complaint pursuant to: *The use of Mtion Pctures as Eidence*, LR 2d 686, where here the best celebrity staffs have provided the "safety net" for [him] if Persik chose to stand for the people of the U.S.

8. In this action, Persik will request this Court to modify the "State Danger Theory" in a unique way. In *Piotrowski v. City of Houston*, 51 F.3d 512 (5th Circ, 1995), the Court states, at 512, "In order for police officers' actions to have created 'special relationship' requiring them to protect plaintiff crime victim, plaintiff was required to show involuntary confinement against her will through exercise of state power. 42 U.S.C.A. § 1983".

9. Persik will ask this Court to adopt a modified definition of "Involuntary Servitude" which is well known by our modern understanding of domestic violence. In 1985, Adams

County Pennsylvania police could not take action after Roger Persik threatened the life of Persik by professing he would kill Persik with a gun in the future. Police could take no action under the laws, and subsequently, Persik maintains that [he] was truly held in a state of involuntary servitude for years as were others. "Authority and control of parents over children. It is no defense to defendants' enslavement and subrogation of children that children's parents consented to defendant's acts. *United States v. King*, 840 F.2d 1276 (6th Circ, 1988). In Persik's version of the modified "State Danger Theory", the "state actor" would be held responsible for future violations of law created by any acts of violence against the victim by the actor because they in fact create the condition by having no legal recourse to act. In this case, ex parte Karl Swenson, and John Higney's, failure to investigate, coupled with future state and federal agency actors failure to take affirmative action created the condition of an excess of 9 years of Involuntary Servitude in violation of 18 USCS § 1584. Persik informs this Court that January 28, 1999 is the 1584th day following the death of [his] unborn son on September 27, 1994.

Part III. Will this Honorable Court consider all the facts embodied in the civil rights portion of this extremely complex series of litigation actions (cases), and subsequently review the lower court's dismissal, and the 10th Circuit's affirming the dismissal, of this case, for an abuse of discretion pursuant to F.R.Civ.P., Rule 8(a)?

1. Persik maintains that his Complaint consists of 40 coherent pages; however, Persik maintains that this litigation is extremely complex, and it is by it's very nature convoluted because the Complaint ties in 20 years of alleged Involuntary Servitude in violation of 18 USCS § 1584, and Persik maintains that newly discovered evidence shows that the Karl Swenson of C.S.U., or Ms. Anne Hudgins, may have in fact attempting to break this alleged involuntary servitude with

the alleged illegal arrest on 28 January 1999 which was in fact 1584 days following the alleged unlawful arrest discussed *supra* in part II of this argument.

2. Persik recently discovered additional evidence which solidifies the theories suspected previously. In *Ex parte Hudgins*, 9 ALR 1361 (86 WVa 526, 1920), "the Court states: "State law requiring able-bodied males between certain age to engage in some recognized occupation or profession during time of war, regardless of their means of support, is unconstitutional." Persik maintains that this lends credibility to [his] theory that high society, namely Ms. Anne Hudgins, was aware of a future war with Iraq as early as 1998, and the potential for the benefits for the American people if WE fought the battles for equality etc, on the homefront.

3. "An appellate court may remand a case for the consideration of newly discovered evidence, *AG Pro, Inc. v. Sakraida*, 481 F2d 668. However, before such a remand is ordered, the movant must show that his or her failure to discover the evidence in time for trial is not due to lack of diligence, *Toldeo Scale Co. v. Computing Scale Co.*, 261 US 399."

4. Persik maintains that the Amd Cmplt is not in violation of F.R.Civ.P., Rule 8(a) as alleged at A-9 where the magistrate cites "*Carpenter v. Williams*, 85 F.3d 1015, 1016 (10th Cir. 1996) and *Conley, 355 U.S. at 47* (complaint must "give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests"). Consequently, this case is subject to dismissal without prejudice on these grounds." Rather, Persik maintains that this litigation is extremely complex and deserves to be given all protections afforded to a pro se plaintiff considering the benefits that could be afforded to the American people upon successful remand. Pesik maintains that an abuse of F.R.Civ.P., Rule 8(a) occurs

in a case "where complaint was unnecessarily complicated and verbose and rambled for more than 600 paragraphs and 240 pages, including 50-plus page 'overview' of alleged wrongful conduct," *In re. Westinghouse Sec. Litig.*, 90 F2d 696 (3rd Circ, 1996).

5. Finally, Persik maintains that F.R.Civ.P., Rule 8, "allows the plaintiff to plead two or more statements in one claim cannot be construed as an admission against abother alternative or inconsistent claim, *Henry v. Daytop Village, Inc*, 42 F.3d 89 (2nd Circ, 1994), and in an un-cited reference, Persik maintains that the court must apply a rule 8(a) analysis to each claim of the Complaint.

Part IV. Will this Honorable Court remand this case with directions for the lower court to permit the petitioner to file a different class action amended complaint, than the one tendered on February 15, 2005, which will utilize both an alleged criminal link matrix and activities matrix, learned from a military intelligence officer in December 2005, to clarify the alleged relationships, and roles of the named defendants, in their former supervisory positions over state, and federal officers, capable of taking affirmative action?

1. Persik maintains that the amended complaint submitted to the Court on February 15, 2006 is very readable. Rather Persik took a very difficult subject, and [he] divided the action into numerous claims within the Complaint. Persik maintains that [he] will be able to utilize a criminal link diagram, and an activities matrix, to tie the picture together in a much clearer and concise manner for the district court judge to read. Persik will further refine the tendered amended complaint, after remand, and acceptance of the current tendered complaint. Persik will remove all exhibits from the Complaint for starters making the Complaint a very concise 35-40 page complaint. Persik was not aware of F.R.

Civ. P., Rule 26 disclosures prior to submitting [his] original or first amended complaint.

2. In *Buckley v. Altheimer*, 2 FRD 285 (DC Ill, 1942), the "Court granted motion to strike complaint of 260 pages, which was highly argumentative both as to facts and law, and to which were attached 43 pages of exhibits." Persik maintains that [his] tendered amended complaint was extremely concise given the nature, and the alleged duration, of the allegations and issues raised.

Part V. Can this Court wait to review this Petition until the 9th Circuit has the opportunity to review the Appellant's Amended Opening Brief, and the record, from the district court for the district of Western Washington, in *Persik, et. al. v. Group Health, Inc., et. al, infra*, which is the pro life portion of this complex litigation, and will this Court subsequently, at the time all cases are at this Court, revisit: *Persik v. Colorado, infra*, *Persik v. Colorado State University, infra*, and *Persik v. Manpower Inc., infra*, since the cases have their roots in the same alleged initiation of wrong doings: "The loss of Angel Persik, on September 27, 1994, followed by the subsequent exploitation of the petitioner"?

1. This case, and three previous cases filed in this Court, stem from the same incident, the loss of Persik's unborn son to the procedure of abortion on September 27, 1994. Thus, if this Court grants this petition, will this Court exercise it's authority and revisit the petitions for writ, and the petitions for rehearing, in: (a) *Persik v. Colorado State University, supra*, (b) *Persik v. Manpower Inc.*, 542 U.S. 960 (#03-1473, 541 U.S. 1086, 2004), and (c) *Persik v. Colorado*, 538 U.S. 995 (#02-875, 537 U.S. 1190, 2003), as stated in 2A Fed. Proc § 3:410: " If Certiorari is denied earlier in a litigation

and a subsequent petition for certiorari is later granted, …, may consider questions raised by both petitions", *Chessman v. Teets*, 354 US 156 (1957), *Mercer v. Theriot*, 377 US 152 (1964).

2. On August 4, 2006, Persik tendered an amended opening brief to the 9th Circuit in *Persik, et. al. v. Group Health Inc., et. al.*, 05-35953 (9th Circ, 2005). The appellant, Persik, organized the allegations into a much clearer view of how abortion is allegedly being utilized in the United States for pecuniary and political benefits of ex-parte defendants to the action in the lower Courts. Persik will motion this Court for a stay of the proceedings in this case pending this Court's review of what is truly the entire record consisting of all 4 U.S. Supreme Court cases and the record in the 9th Circuit Court of Appeals.

3. Persik maintains that the litigation does work, and [he] prays that [his] current employer, Manpwoer, Inc., will support the changes requested in the previous case filed in this Court for the benefit of the American people.

CONCLUSION

The petitioner prays that this honorable Court grants this Petition, and subsequently remands this Case to the 10th Circuit with instructions to have the lower Court continue proceedings following the filing of the current tendered complaint AND a new amended complaint utilizing the link matrices and activities diagrams discussed *supra*. Additionally, the petitioner prays this Court will issue an ORDER compelling the lower Court to issue Mandamus. Persik maintains that this is a perfect opportunity for the lower district court to hear testimony from some of the scientific communities most brilliant minds such as Dr. Michael Schurr, et. al., concerning the use of the technology described in the district court during the December 22, 2004

scheduling conference. The courts partnering with such brilliant minds will allow this Nation to propel ourselves forward into the future with a true understanding of all the technologies that will be utilized to potentially target the United States of America and this Nation's interests abroad, and most importantly, remanding this case will protect OUR personal, individual liberties as human beings. Persik concludes by focusing on *Katz v. United States*, 389 U.S. 347, 350 (1967), which deals with the roots of privacy in the 4th and 5th Amendments. LTC Katz was Persik's director of instruction at [his] June 2006 completion of I.L.E., Phase 3 discussed supra, and thus, Persik maintains the best government officers, such as LTC Katz, are pushing for Persik's right to privacy.

WHEREFORE THE REASONS PRESENTED IN THIS PETITION, and the three previously filed petitions cited within, the Petitioner prays this Honorable Court will GRANT this Petition for Writ of Certiorari to the 10th Circuit Court of Appeals in Denver, Colorado.

Respectfully submitted this 18th day of September 2006.

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APPENDIX

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FILED

United States Court of Appeals
Tenth Circuit
March 14, 2006
Elizabeth A. Shumaker
Clerk of Court

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

RAYMOND C. PERSIK,
Plaintiff-Appellant,

v.

No. 05-1276
(D.C. No. 04-CV-1120-WDM-MJW)
(D. Colo.)

KEN SALAZAR; PHILLIP B.J. REID,
Special Agent in Charge, Federal Bureau of Investigation – Denver Division,
Defendants-Appellees.

ORDER AND JUDGMENT[*]

Before **TYMKOVICH, McKAY,** and **BALDOCK**, Circuit Judges.

[*] After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R.34.1(G). This case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines

Raymond C. Persik appeals from an order of the district court dismissing with prejudice his civil rights complaint for failure to state a claim and for failure to present "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). The district court also denied Mr. Persik leave to amend his complaint, concluding that it would be futile to grant him such relief.

Mr. Persik presents three appellate issues. First, he contends that he is entitled to mandamus relief "as a representative of the American people," Aplt. Opening Br. at 8, to compel the defendants named in this case to provide him with redress "for the nearly seven years of inhumane treatment that he allegedly suffered while a resident of the State of Colorado," *id.* at 9, to require them to consider "security holes within the United States Department of Justice and U.S. Military Installations," *id.*, and to redress violations of international treaties. Second, he contends that the district court erred in concluding that his proposed second amended complaint did not comply with Rule 8(a). Finally, he asserts that the district court failed to accept "the well-plead[ed] allegations in [his] complaint" and to construe them "in a light most favorable to the non-moving party." Aplt. Opening Br. at 12.

We review de novo the district court's dismissal of an action under Fed. R. Civ. P. 12(b)(6) for failure to state a claim. *Beck v. City of Muskogee Police Dept.*, 195 F.3d 553,556 (10th Cir. 1999). We construe broadly the

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of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

allegations of a pro se complaint. *Hall v. Belmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). Dismissals under Rule 8(a) are reviewed for an abuse of discretion. *Kuehl v. FDIC*, 8 F.3d 905, 908 (1st Cir. 1993). We also review the district court's denial of leave to amend a complaint for an abuse of discretion. *Merida Delgado v. Gonzales*, 428 F.3d 916, 921 (10th Cir. 2005).

Having considered the briefs, the record, and the applicable law in light of the above-mentioned standards, we AFFIRM the dismissal of Mr. Persik's complaint and the denial of leave to amend for substantially the reasons stated in the district court's order of April 15, 2005.

Entered for the Court

Bobby R. Baldock
Circuit Judge

UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Walker D. Miller

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
APR 18 2005
GREGORY C. LANGHAM
CLERK

Civil Action No. 04-WM-1120 (MJW)
Raymond C. Persik,

Plaintiff,

v.

KEN SALAZAR, Colorado Attorney General, and,
PHILLIP B.J. REID, Special Agent in Charge, Federal Bureau of Investigation – Denver, Division,

Defendants.

JUDGMENT

Pursuant to and in accordance with the Order entered on April 15, 2005, by Judge Walker D. Miller, which is incorporated herein by reference as if fully set forth, it is

ORDERED the recommendation of Magistrate Judge Michael J. Watanabe, issued on January 21, 2005 is accepted. It is

FURTHER ORDERED that defendant Phillip B.J. Reid's motion to dismiss, filed October 22, 2004 and defendant Ken Salazar's motion to dismiss, filed November 1, 2004 are granted.

It is

FURTHER ORDERED that the complaint is dismissed with prejudice.

FURTHER ORDERED that defendants may have their costs upon the filing of a Bill of Costs within ten days from entry of judgment.

DATED at Denver, Colorado, this 18th day of April, 2005.

FOR THE COURT:

GREGORY C. LANGHAM, CLERK

By: s/Stephen P. Ehrlich
Stephen P. Ehrlich
Chief Deputy Clerk

EOD
UNITED STATES DISTRICT COURT
DENVER, COLORADO
APR 18, 2004
GREGORY C. LANGHAM
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Walker D. Miller

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
APR 15 2005
GREGORY C. LANGHAM
CLERK

Civil Action No. 04-WM-1120 (MJW)

RAYMOND C. PERSIK,

Plaintiff,

v.

KEN SALAZAR, et. al.

Defendants.

ORDER ON RECOMMENDATION OF MAGISTRATE JUDGE

Miller, J.

This matter is before me on Magistrate Judge Michael J Watanabe's recommendation, issued January 21. 2005, that both defendant Phillip Reid's (Reid) and defendant Ken Salazar's (Salazar) motions to dismiss be granted, and that this case be dismissed. Plaintiff Raymond Persik (Persik) filed timely objections to the recommendations and is entitled to *de novo* review. 28 U.S.C. § 636(b).

I have reviewed the recommendations, objections, motions and response and conclude the recommendation should be accepted.[1]

By amended complaint filed October 7, 2004, Persik seeks relief against defendants Salazar, former Attorney General for the State of Colorado, and Reid, Special Agent in Charge in the FBI's Denver Division. Persik's amended complaint is both lengthy and largely incomprehensible. It alleges, among other things, that (1) unknown persons are utilizing some unknown technology to influence his thoughts; (2) four female acquaintances are arranging for unknown persons to stalk and harass him, (3) various attempts on his life have been made by unknown persons; (4) his apartment was bugged by unknown persons; and (5) he was unlawfully arrested in Fort Collins, Colorado, for saying "Happy New Year" to someone. Persik alleges that these actions have violated various of his state and federal constitutional rights. As relief, Persik seeks an order directing the FBI to meet with him to receive information about his theory of national security failings; requiring Colorado to set up a "Politician Training Program" at state universities; requiring the FBI investigate the use of thought influencing technology: requiring the Colorado Attorney General coordinate with the Governor to pardon a February 1999 guilty plea: requiring the FBI and Colorado Attorney General to investigate an individual for violating 18 U.S C. § 1584 (prohibiting the sale into involuntary servitude); restraining seven non-party individuals; enjoining all use of "the radio frequency used to influence thought"; and

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[1] Persik has filed a motion to strike Reid's response to his objections as untimely. Reid, in turn, responds that I must deny the motion because Persik failed to comply with D.C.COLO LCivR. 7.1A. I elect to disregard Reid's response, which provides little substantive argument, and utilizes the wrong standard of review at that. Accordingly, Persik's motion to strike will be denied as moot.

requiring the FBI to coordinate a visa for some unknown person. (Amd. Compl., at 38-40.)

Reid and Salazar each filed motions to dismiss, which I referred to Magistrate Judge Watanabe pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Watanabe now recommends that Persik's claims be dismissed against (1) Reid for failure to comply with Fed. R. Civ. P. 8(a), because they are barred by sovereign immunity,[2] and for failure to state a claim, because the complaint does not set forth any constitutional violations by Reid; and (2) Salazar for failure to state a claim, because (a) the complaint indicates no personal participation by him; and (b) because Persik cannot show that he is entitled to the relief he seeks, namely an order of mandamus or for an injunction ordering Salazar to undertake certain activities.

In his objections, Persik appears to concede that his amended complaint failed to comply with Fed. R. Civ. P. 8(a), but argues that an anticipated amended complaint would cure these failures. Having reviewed his subsequent amended complaint (second amended complaint), tendered February 21, 2005, I disagree.

Fed. R. Civ. P. 8(a) requires a complaint to contain "(1) a short and plain statement of the grounds upon which the court's jurisdiction depends,...(2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief the pleader seeks." In essence, Rule 8(a) requires that a plaintiff "give the defendant fair notice of what the plaintiff's claim is and the

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[2] :Magistrate Judge Watanabe did not address Persik's argument that the Administrative Procedures Act provides a waiver of sovereign immunity for his claims. However, because I need not reach this issue to decide this case, I do not address it.

grounds upon which it rests." *Conley v. Gibson*, 355 U.S. 41, 47 (1957). Although Persik is proceeding *pro so*, and therefore is entitled to a liberal reading of his complaint, *Riddle v. Mondragon*, 83 F.3d 1197, 1202 (10th Cir. 1996), he remains bound to comply with the Federal Rules of Civil Procedure. See *Murray v. City of Tahlequah, OK*, 312 F.3d 1196, 1199 n.3 (10th Cir. 2002) (plaintiff's "pro se status does not relieve him of the obligation to comply with procedural rules").

Both Persik's amended complaint and his tendered second amended complaint fall well short of Fed. R. Civ. P. 8(a)'s requirements that they provide short and plain statements of (1) the grounds for my jurisdiction; and (2) his claims, showing that he is entitled to relief. Rather, both are lengthy, convoluted, and largely incomprehensible. See *Carpenter v. Williams*, 85 F.3d 1015, 1016 (10th Cir. 1996). *See also Conley*, 355 U.S. at 47 (complaint must "give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests"). Consequently, this case is subject to dismissal without prejudice on these grounds.

However, as found by Magistrate Judge Watanabe, the more fundamental problem with Persik's amended complaint was that it failed to state a claim against either defendant, as it failed to provide any basis for their liability. *See, e.g., Ledbetter v. City of Topeka*, 318 F.3d 1183, 1187 (10th Cir. 2003) (internal quotations omitted) (in § 1983 case, plaintiff must "show that an affirmative link exists between the constitutional deprivation and either the defendant's personal participation, his exercise of control or direction, or his failure to supervise"). Although the amended complaint alleges a variety of misconduct on the part of various, and often unidentified, third parties, it does not indicate how Reid or Salazar might be held responsible for Persik's alleged harm. Persik concedes in his objections that his amended

complaint fails to state a claim against the defendants, but asserts that his second amended complaint will cure the deficiencies. Having reviewed the second amended complaint, I disagree.

The second amended complaint makes the following allegations regarding Reid: (1) in December 1999, having moved to Fort Collins, Persik contacted the "local office" of the FBI, complaining that he was being stalked and that the Seattle EEOC office had failed to investigate an employment discrimination claim, but the office refused assistance even after two men attempted to strangle him (2nd Amd. Compl., ¶¶ 41-42); (2) in March 2000, for unclear reasons, Persik suspected the head of the FBI in Denver as potentially obstructing justice, although Persik was not sure Reid was in that position at the time (Id., ¶ 43); (3) on April 25, 2001, Persik visited the Denver FBI office and filed a complaint, but left with the impression that the United States was pro-abortion (Id. at ¶ 46); and (4) on February 10, 2004, Persik disclosed a theory of pre-September 11 security failures to an FBI agent in Denver and as a result was escorted by agents from the building and told not to return, leading Persik to believe that Reid knew Persik had valid information and wanted it covered up. (Id., ¶¶ 31 & 49).

The complaint makes the following allegations regarding Salazar: (1) Salazar was or should have been notified of the use of thought-inducing technology against Persik by various court filings with the Colorado and U.S. Supreme Courts (*Id.* ¶¶ 74, 77, 81); and (2) on August 1,2002, Persik contacted one of Salazar's deputies, complaining that this technology was being used against him in violation of an international treaty, but apparently the deputy failed to act on the complaint. (*Id.* at ¶ 75.)

I find that, as a matter of law, these allegations are insufficient to state a claim against Persik and Salazar. Furthermore, Persik's allegations simply cannot support the relief he seeks. In both his amended and second amended complaints, he seeks a variety of extraordinary relief., including an order enjoining future use-by an unidentified and non-party individual-of mind-influencing technology, an order requiring Salazar to entreat Owens to pardon Persik, an order requiring the FBI to investigate how many abortions occurred for political reasons, an order requiring the State of Colorado-not a party to this case-to establish a politician training program, and unspecified restraining orders against individuals who are not even parties to this case. It is manifestly clear that neither Persik's amended nor his second amended complaint can establish a legal right to the relief he seeks. *See McKinney v. State of Oklahoma*, 925 F.2d 363, 365 (10th Cir. 1991) (where it is patently obvious that the plaintiff could not prevail on the facts alleged, and allowing him an opportunity to amend his complaint would be futile, a district court may dismiss a complaint *sua sponte* under Rule 12(b)(6)). Because, after three attempts, Persik has failed to tender a complaint containing claims providing any legal basis for the relief he seeks, I find that this case should be dismissed with prejudice.

Accordingly, it is ordered:

1. The recommendation issued by Magistrate Judge Watanabe, on January 21, 2005 (Docket # 46), is accepted.

2. Plaintiff's objections are overruled.

3. Defendant Phillip Reid's motion to dismiss, filed October 22, 2004 (Docket # 17), and Defendant Ken Salazar's motion to dismiss, filed November 1, 2004 (Docket # 19), are granted.

4. Plaintiff's motion to strike Defendant Reid's response to Plaintiff's objections (Docket # 61), is denied as moot.

5. To the extent Plaintiff's tendering of a second amended complaint on February 15, 2005, constitutes a motion to amend his complaint, it is denied as futile.

6. This case is dismissed with prejudice.

DATED at Denver, Colorado, this s/15th day of April, 2005.

BY THE COURT:

s/Walker D. Miller
Walker D. Miller
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Walker D. Miller

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
JAN 21 2005
GREGORY C. LANGHAM
CLERK
s/SLM

Civil Action No. 04-WM-1120 (MJW)

RAYMOND C. PERSIK,

Plaintiff,

v.

KEN SALAZAR, Colorado Attorney General, and,
PHILLIP B.J. REID, Special Agent in Charge, Federal Bureau of Investigation – Denver, Division.

Defendants.

RECOMMENDATIONS ON (1) DEFENDANT REID'S MOTION TO DISMISS (Docket No. 17); AND (2) DEFENDANT SALAZAR'S MOTION TO DISMISS (Docket No. 19)

MICHAEL J. WATANABE
United States Magistrate Judge

This case is before this court pursuant to an Order of Reference issued by District Judge Walker D. Miller on

October 12, 2004. (Docket No. 11). Pending before the Court is Defendant Phillip B.J. Reid ("Reid"), Federal Bureau of Investigation ("F.B.I.") Special Agent in Charge's Motion to Dismiss, filed on October 22, 2004 (Docket No. 17), and Defendant Attorney General Ken Salazar's ("Salazar") Motion to Dismiss, flied on November 1, 2004 (Docket No. 19). The Court has carefully considered the motions, responses, applicable case law, and the Federal Rules of Civil Procedure.

Background

The *pro se* plaintiff filed a rambling, and often nonsensical Complaint on June 1, 2004. (Docket No. 1). An equally disjointed, and frequently incoherent Amended Complaint was filed on October 7, 2004. (Docket No. 6). Demonstrating its incomprehensiveness, the verbose Amended Complaint begins with,

> The plaintiff's intentions, in filing this case, are to expand the awareness of numerous civil rights issues, domestic violence issues, and help minimize, if not eliminate, the use of abortion as a political tool or mechanism for producing capital. The plaintiff will trust numerous Americans, mostly Colorado residents, had good intentions in committing wrongful acts of violence to address the severity of numerous problems in our society.[sic] In the eyes of the plaintiff, abortion practices are morally sick enough without being used in the manner described in this case, and previous cases. In addition, the plaintiff addresses his perception of what causes terrorists to strike at Americans, or American allies around the world. Only together can we build an America that our children will want to grow up in and raise their children.

(See Plf's. Amend. Compl., at 2-3).

Plaintiff then proceeds to go on a tangent about many topics, including, but not limited to: abortion, his past personal relationships with others, former President William J. Clinton's national security policies, and varied conspiracy theories. Id. at 3-6. Afterwards, Plaintiff sets forth his claims for relief in the form of: (1) an account of an F.B.I. investigation, the abortion of Plaintiff's unborn son, and former President Clinton's national security policy; (2) a story about Plaintiff's military duties connected with the abortion of his unborn son, and his beliefs of being stalked; (3) an account about Plaintiff being tortured, and a romantic relationship between Ms. Jill Schroeder and himself; (4) a claim that a conspiracy exists to use radio frequency to influence Plaintiff's mental thoughts; (5) a claim that covert listening devices or "bugs" were placed in Plaintiff's residences, and places of employment; (6) a claim that Plaintiff was defrauded of his real property by Ms. Kristen Morrow and others; (7) a claim that the State of Colorado is preventing Plaintiff from exercising his religion; and (8) an allegation that the State of Colorado conducted an unlawful arrest, a malicious prosecution, and a fraudulent representation through the attorneys involved.

Defendant Reid's Motion to Dismiss

Defendant Reid, filed a Motion to Dismiss, pursuant to Fed. R. Civ. P. 12(b)(1) and (6). (Docket No. 17). Plaintiff filed a response to that motion (Docket No. 23). In his Motion to Dismiss, Defendant Reid argues that: (1) Plaintiff's Amended Complaint fails to comply with Fed. R. Civ. P. 8 because it fails to set forth a short and plain statement of his claim; (2) the Court lacks subject matter jurisdiction over Plaintiff's claims because Plaintiff's claims against Reid are barred by sovereign immunity; and (3)

Plaintiff has failed to state a claim upon which relief may be granted. (See Def. Reid's Mot. to Dismiss, at 2-6).

Failure to Comply with Fed. R. Civ. P. 8

As an initial matter, Defendant Reid argues that Plaintiff's Amended Complaint should be dismissed because none of the eight allegations identifies any personal conduct on behalf of Defendant Reid. Defendant Reid astutely points out that while references are made to him in the caption of allegations two through seven, there are no specific factual allegations made about him anywhere else in the Amended Complaint. In fact, none of the allegations contain any mention of Defendant Reid or the F.B.I. (See Def. Reid's Mot. to Dismiss, at 2-3).

Rule 8(a)(2) of the Federal Rules of Civil Procedure requires that Plaintiff's Complaint contain a short and plain statement of the claim that he is entitled to relief. Carpenter v. Williams, 86 F.3d 1015, 1016 (10th Cir. 1996). Because Plaintiff brings this action *pro se*, the Court construes all of his pleadings liberally and to a less stringent standard than formal pleadings drafted by lawyers. Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991)(citing Haines v. Kerner, 404 U.S. 519, 520-21 (1972)).

In this case, having reviewed the record with these standards in mind, the Court determines that the Amended Complaint fails to meet the pleading requirements of the Federal Rules of Civil and Appellate Procedure. The prolix Amended Complaint consists of incidents relating to physical and emotional injures and .alleged criminal activities, without sufficient identification of the responsible parties, applicable legal theories, or facts surrounding each incident. Based on the Amended Complaint, the Court is unable to discern the precise basis for Plaintiff's .allegations or against

whom he directs the charges of wrongdoing. Thus, Plaintiff's Amended Complaint fails to give the Defendants fair notice of the basis of the claim against them so that they may respond, or allow the Court to conclude that the allegations, if proven, show that he is entitled to relief. See Monument Builders of Greater Kansas City, Inc. v. American Cemetery Ass'n of Kansas, 891 F.2d 1473, 1480 (10th Cir. 1989), *cert. denied*, 494 U.S. 930 (1990).

More specifically, Plaintiff's forty-page Amended Complaint, far from being a model of clarity, largely consists of rambled, confused, disjointed goobledygook-written from and about various states and locations, and advancing incredible theories. Therefore, because Plaintiff has failed to comply with Rule 8(a)(2) of the Federal Rules Rules of Civil Procedure, his Amended Complaint should be dismissed on this basis alone. But as discussed in detail below, even if Plaintiff's Amended Complaint did conform with the Federal Rules (it does not here), he still would not be entitled to relief, based on lack of subject matter jurisdiction, and the failure to state a cognizable claim.

Lack of Subject Matter Jurisdiction

In claiming that the Court lacks subject matter jurisdiction over Plaintiff's claims, Defendant Reid asserts that the Plaintiff's claims against him as an individual defendant in his official capacity, are barred by sovereign immunity, and thus this court lacks subject matter jurisdiction over such claims. (See Def. Reid's Mot. to Dismiss, at 5-9). This Court agrees.

Plaintiff's claims against the defendant in his official capacity as an agent or employee of the F.B.I. are construed as claims against the United States. Atkinson v. O'Neill, 867 F.2d 589, 590 (10th Cir. 1989). The United States is a

sovereign and, as such, is immune from suit without its prior consent. United States v. Shaw, 309 U.S. 495, 500-01 (1940); Amoco Oil Co. v. United States Environmental Protection Agency, 959 F. Supp. 1318, 1320 (D. Colo. 1990). The United States is not subject to suit absent an express statutory waiver of its sovereign immunity. Atkinson, 867 F.2d at 590.

Despite all of the allegory and extended commentary offered by Plaintiff in his Amended Complaint, Plaintiff still has made no showing that the United States has waived its sovereign immunity by consenting to being sued. Therefore, it is recommended that the claims against the named defendant in his official capacity also be dismissed. See Hatten v. White, 275 F.3d 1208, 1210 (10th Cir. 2002) ("A *Bivens* action may not be brought against federal agencies or agents acting in their official capacities."); United States v. Testan, 424 U.S. 392, 399 (1976); FDIC v. Meyer, 114 S.Ct. 996, 1005-06 (1994) (holding that a *Bivens* action cannot be implied directly against federal agencies)).

Furthermore, when a defendant raises a qualified immunity defense, the plaintiff "bears the burden of showing that: (1) the defendants' actions violated a constitutional or statutory right; and (2) the right was clearly established and reasonable persons in the defendants' position would have known their conduct violated that right." Cruz v. City of Laramie, Wyo., 239 F.3d 1183, 1187 (10th Cir. 2001). "'Ordinarily, in order for the law to be clearly established, there must be a Supreme Court or Tenth Circuit decision on point, or the clearly established weight of authority from other courts must have found the law to be as the plaintiff maintains.'... The plaintiff is not required to show, however, that the very act in question previously was held unlawful in order to establish an absence of qualified immunity." Id. (footnotes omitted). If the plaintiff does not satisfy either

portion of the two-pronged test, the Court must grant the defendant qualified immunity. Gross v. Pirtle, 245 F.3d 1151, 1156 (10th Cir. 2001).

Here, Plaintiff's Amended Complaint fails to identify any statute limiting the Defendant officer's powers, or allege any conduct that was beyond his statutory authority. Moreover, Plaintiff's meandering, sometimes fantastic, allegations do not support a finding that Defendant Reid violated any of his clearly-established constitutional rights. Therefore, based on the above, Plaintiff's claims should be dismissed for lack of subject matter jurisdiction.

Failure to State a Claim

Defendant Reid also argues that Plaintiff's Amended Complaint fails to articulate any constitutional violations, or describe how they were violated by Defendant. (See Def. Reid's Mot. to Dismiss, at 9). The Defendant is correct. Fed. R. Civ. P. 12(b)6) allows a defendant to move that a complaint be dismissed for "failure to state a claim upon which relief can be granted." In this case, even when liberally construed, Plaintiff's obscure allegations do not support a finding that Defendant Reid violated any of his constitutional rights. Therefore, Plaintiff's convoluted Amended Complaint fails to state any claim upon which relief can be granted, and as such, Plaintiff's claim should be dismissed.

Defendant Salazar's Motion to Dismiss

Also before the court is Defendant Attorney General Ken Salazar's Motion to Dismiss for failure to state a claim upon which relief can be granted, which was filed on November 1, 2004 (Docket No. 19). Plaintiff filed a response to that motion. (Docket No. 34). In his Motion to Dismiss,

Defendant Salazar's mainly argues that Plaintiff's Amended Complaint fails to make any allegation that Salazar directly or indirectly participated in any violation of Plaintiff's rights. Alternatively, Salazar further argues that if Plaintiff's request for relief is construed by the Court either as: (1) a request for mandamus relief, or as (2) a request for an injunction, he would still not be entitled to relief on these other grounds. (See Def. Salazar's Mot. to Dismiss, at 4-5). Below, each of Defendant's arguments are analyzed in turn.

Lack of Personal Participation

Defendant Salazar argues that the Amended Complaint fails to make any allegation that he personally participated in any violation of Plaintiff's rights. (See Def. Salazar's Mot. to Dismiss, at 1-3). "Individual liability under § 1983 must be based on personal involvement in the alleged constitutional violation." Foote v. Spiegel, 118 F.3d 1416, 1423 (10th Cir. 1997). Furthermore, "under § 1983, 'a defendant may not be held liable under a theory of respondent superior... Instead, 'a plaintiff must show that an affirmative link exists between the [constitutional] deprivation and either the [defendant's] personal participation, his exercise of control or direction, or his failure supervise.'" Ledbetter v. City of Topeka, Kansas, 318 F.3d 1183, 1187 (10th Cir. 2003). "To be liable, a superior must have 'participated or acquiesced in the constitutional deprivations of which complaint is made.'" Meade v. Grubbs, 841 F.2d 1512, 1527 (10th Cir. 1988) (citations omitted). See Jenkins v. Wood, 81 F.3d 988, 995 (10th Cir. 1996) ("A plaintiff may satisfy this standard by showing the defendant-supervisor personally directed the violation or had knowledge of the violation and acquiesced in the continuance."). "A supervisor may be held liable where there is a complete failure to train subordinates or training that is so reckless or grossly negligent that future misconduct

is almost inevitable." Williams v. Hart, 1991 WL 47118, *1 (10th Cir. Mar. 22, 1991) (citations omitted).

Here, Plaintiff cannot show that Defendant Salazar personally participated in any alleged constitutional violation. In fact, Salazar could not have had any personal involvement in any violation of Plaintiff's rights since he is not even referred to by name or title in any of the lengthy supporting factual allegations in the Amended Complaint. (See Plf's Amend. Compl. at 2-40). Notably, Plaintiff's citations to Salazar are limited to the cursory and obligatory mentioning of "in corporation with, Ken Salazar, Colorado Attorney General" situated directly below the captions for the second, third, fourth, fifth, sixth, seventh, and eighth claims for relief. (See Def. Salazar's Mot. to Dismiss, at 13, 18, 28, 30, 31, 33, and 35). Later, Defendant Salazar is again mentioned when Plaintiff makes an atypical request to the Defendant on the last page of his Amended Complaint,

> Persik requests the CO Attorney General Ken Salazar legislate [sic] a new law making 'third party stalking' a criminal offense [sic] by the party participating in the stalking directly and the person instigating such action, i.e. state clearly that the party perpetuating the stalking go to jail for complicity. Id. at 40.

Clearly, other than the occasional name dropping, Plaintiff alleges no evidence to demonstrate "personal participation" on Salazar's part sufficient to state a claim for relief. He has not shown that Salazar was even present when any of Plaintiff's allegations occurred. There is nothing in record that reflects that Plaintiff ever met or spoke with Salazar. Accordingly, Plaintiff's claim should be dismissed on this basis.

Request for Mandamus Relief

In his Motion to Dismiss, Defendant Salazar argues that Plaintiff may in the alternative, be seeking a request for mandamus relief. But even so, Defendants contend that he is still not entitled for relief. (See Def. Salazar's Mot. to Dismiss, at 5). The Court similarly finds that even if Plaintiff's claim were construed liberally as a request for mandamus relief, it would still fail. Mandamus relief is available only under limited circumstances:

> Mandamus is an extraordinary remedy, which will issue only upon a showing (1) that petitioner has a 'clear right to the relief sought,' (2) that the respondent has 'a plainly defined and peremptory duty... to do the action in question,' and (3) that 'no other adequate remedy [is] available.' The petitioner seeking the issuance of a writ of mandamus bears the burden of showing that his or her right to the writ is 'clear and indisputable.'

In re McCarthey, 368 F.3d 1266 , 1268 (10th Cir. 2004) (citations omitted). Here, Plaintiff fails to meet any of the *McCarthy* prongs for mandamus relief. He offers no legal authority or facts showing that he is entitled to mandamus relief. To reiterate, without any evidence to show either personal participation on the part of Salazar or that Plaintiff is otherwise entitled to mandamus relief, Plaintiff fails to state a claim upon which relief can be granted.

Injunctive Relief

Lastly, Defendant Salazar suggest that if the requests for relief contained in the Amended Complaint are construed by it as a request for an injunction, Plaintiff cannot meet the required test. (See Def. Salazar's Mot. to Dismiss, at 5). The Tenth Circuit has stated that,

> [i]n hearings upon motions for temporary or preliminary injunctive relief, the burden is upon the one requesting such relief to make a *prima facie* case showing a reasonable probability that he will ultimately be entitled to the relief sought. The applicant has the additional burden of showing a right to the specific injunctive relief sought because of irreparable injury that will result if the injunction is not granted. **There must exist a probable right and a probable danger**. (emphasis added).

Lundqrin v. Claytor, 619 F.2d 61, 63 (10th Cir. 1980) (quoting Crowther v. Seabora, 415 F.2d 437, 439 (10th Cir. 1969)). The above test has been expanded into four factors which the party seeking injunctive relief must establish:

> (1) substantial likelihood that the movant will eventually prevail on the merits (2) a showing that the movant will suffer irreparable injury unless the injunction issues; (3) proof that the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) a showing that the injunction, if issued, would not be adverse to the public interest.

Id. Here, Plaintiff has not satisfied any of the required factors, and therefore, he has no t met his burden of proof in seeking specific injunctive relief, if that is the additional relief he is seeking. Accordingly, Plaintiff's claim should be dismissed on this basis as well.

WHEREFORE, for the foregoing reasons, it is hereby

RECOMMENDED that Defendant Phillip B.J. Reid's Motion to Dismiss (Docket No.17), which was filed on October 22, 2004 (Docket No. 24), be **granted**, and that this action be dismissed against Defendant Reid. It is further

RECOMMENDED that the Defendant Ken Salazar's Motion to Dismiss, which was filed on November 1, 2004 (Docket No. 18), be **granted**, and that this action be dismissed against Defendant Ken Salazar.

NOTICE: Pursuant to 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b), the parties have ten (10) days after service of this recommendation to serve and file written, specific objections to the above recommendation with the District Judge assigned to the case. The District Judge need not consider frivolous, conclusive, or general objections. A party's failure to file and serve such written, specific objections waives *de novo* review of the recommendation by the District Judge, Fed. R. Civ. P. 72(b), Thomas v. Arn, 474 U.S. 140, 148-53 (1985), and also waives appellate review of both factual and legal questions. Makin v. Colorado Dep't of Corrections, 183 F.3d 1205, 1210 (10th Cir. 1999); Talley v. Hesse, 91 F.3d 1411, 1412-13 (10th Cir. 1996).

Dated: January s/21, 2005
Denver, Colorado

s/Michael J. Watanabe
Michael J. Watanabe
United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on s/ Jan. 24, 2005, a copy of the foregoing document was served to the following persons by:

X United States mail, proper postage affixed:

Raymond C, Persik
PO Box 3553
Santa Clara CA 95050

X Hand Delivered to U.S. District Court Box:

Kurt J. Bohn
Assistant United States Attorney
DC Box 28

Ken Salazar
Attorney General
Dianne E. Eret
Assistant Attorney General
DC Box No 20

s/Shelley LU
Deputy Clerk

TREATISES, CONSTITUTIONAL AUTHORITIES AND STATUTES

INTERNATIONAL TREATISES

International Covenant on Civil and Political Rights, 999 UNTS 171 (1966)

Authentic texts: English French, Chinese, Russian and Spanish.
Entry into force 23 March 1976, In accordance with Article 49.
Entry into force, in the United States, on 8 September 1992.

MULTILATERAL

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the Unite Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice an peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear

and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

Applicable articles

Article 7. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 8. 1. No one shall be required to perform forced or compulsory labour.

2. No one shall be held in servitude.

3. ...

Article 23. 1. The family is the natural and fundamental group of society and is entitled to protection by society and the State.

2. The right of men and women of marriageable age to marry and to found a family shall be recognized.

3. No marriage shall be entered into without the free and full consent of the intending spouses.

4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and

responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1465 UNTS 111 (1987)

The States Parties to this Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that those rights deriuve from the inherent dignity of the human person,

Considering the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to article 5, of the Universal Declaration of Human Rights[1] and article 7 of the International Covenant of Civil and Political Rights, 999 UNTS 171 (1966), both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Having regard also to the Declaration on the Protection of All Persons from Being Subjected to Torture and Other

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[1] United Nations, *Official Records of the General Assembly, Third Session*, Part I, p. 71.

Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9 December 1975.[2]

Desiring to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world,

Have agreed as follows:

Article 1. 1. For the purposes of this Convention, the term "torture" mans any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing hum for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising from, inherent in or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider applications.

Article 2. 1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction,

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for torture.

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[2] United Nations, Official Records of the General Assembly, Thirtieth Session, Supplement No. 34 (A/10034), p. 91.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 3. 1. No State Party shall expel, return or extradite a person to another State where there are substantial grounds for believing that he would be in danger ob being subjected to torture.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicaple, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Article 4. 1. Each State Party shall ensure that all acts of torture are offenses under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.

2. Each State Party shall make these offenses punishable by appropriate penalties which take into account their grave nature.

American Convention on Human Rights, 9 ILM 673 (1970)

American convention on human rights (Pact of San Jose, Costa Rica). Done at San Jose Nov. 22, 1969.

Signed by the U.S. on June 1, 1977. Transmitted to the Senate Feb. 23, 1978.

Senate Treaty Doc. No. 95-2

** Petitioner does not believe that this treaty is currently in force in the United States of America.**

Convention on the Recognition of Divorces and Legal Separations, 1972 UNTS 487 (1970)

Concluded at The Hague on 1 June 1970

Multilateral

The States signatory to the present Convention,

Desiring to facilitate the recognition of divorces and legal separation obtained in their respective territories,

Have resolved to conclude a Convention to this effect, and have agreed on the following provisions:

Article 1. The present Convention shall apply to the recognition in one Contracting State of divorces and legal separations obtained in another Contracting State which follow judicial or other proceedings officially recognized in that State and which are legally effective there.

The Convention does not apply to findings of fault or to ancillary orders pronounced on the making of a decree of divorce or legal separation; in particular, it does not apply to orders relating to pecuniary obligations or to the custody of children.

Article 2. Such divorces and legal separations shall be recognized in all other Contracting States, ...

Convention for the Suppression of Unlawful Seizure of Aircraft, 22 UST 1641 (1970)

Multilateral

Convention done at The Hague December 16, 1970;

Ratification advised by the Senate of the United States of America September 8, 1971;
Ratified by the President f the United States of America September 14, 1971;
Ratification of the United States of America deposited at Washington September 14, 1971;
Proclaimed by the President of the United States of America October 18, 1971
Entered into force October 14, 1971.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

The States Parties to This Convention

Considering that unlawful acts of seizure or exercises of control of aircraft in flight jeopardize the safety of persons and property, of aircraft, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

Considering that the occurrence of such acts is a matter of grave concern;

Considering that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

Have agreed as follows:

Article 1

Any person who on board an aircraft in flight:

(a) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act, or

(b) is an accomplice of a person who performs or attempts to perform any such act

commits an offense (hereinafter referred to as "the offense".)
...

Convention for the suppression of unlawful acts against the safety of civil aviation (with Final Act of the International Conference on Air Law held under the auspices of the International Civil Aviation Organization at Montreal in September 1971). 974 UNTS 177 (1971)

Concluded at Montreal on 23 September 1971

Multilateral

The States Parties to the Convention

Considering that unlawful acts against the safety of civil aviation jeopardize the safety of persons and property, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

Considering that the occurrence of such acts is a matter of grave concern;

Considering that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

Have agreed a follows:

Article 1. 1. Any person commits an offense if he unlawfully and intentionally:
(a) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger

International Development Association and Ecuador, 978 UNTS 159 (1973)

Registered by the International Development Association on 22 January 1973.

United States of America and Afghanistan, Agreement for Sales of Agricultural Commodities, 22 UST 2181 (1971)

Signed at Kabul on 23 August 1971

International Development Association and Afghanistan, for Sales of Agricultural Commodities, Development Credit Agreement, 974 UNTS 111 (1971)

Signed at Washington on 11 June 1971

UNITED STATES CONSTITUTIONAL AMENDMENTS

Amendment I, U.S. Constitution. Religious and political freedom.

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peacefully to assemble, and to petition the Government for a redress of grievances."

Amendment IV, U.S. Constitution. Unreasonable searches and seizures.

". The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Amendment V, U.S. Constitution. Criminal actions-Provisions concerning-Due process of law and just compensation clauses.

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

Amendment VI, U.S. Constitution. Rights of the accused.

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense."

Amendment VIII, U.S. Constitution. Excessive Bail, Fines, Punishments.

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted."

Amendment IX, U.S. Constitution. Construction of Enumerated Rights.

"The enumeration in the Constitution, or certain rights, shall not be construed to deny or disparage others retained by the people."

Amendment X, U.S. Constitution. Reserved Powers to the States.

"The Powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Amendment XI, U.S. Constitution. Suits Against States – Restriction of Judicial Power.

"The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State."

Amendment XIII, U.S. Constitution. § 1 Slavery Abolished and § 2. Power to enforce amendment.

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly

convicted, shall exist within the United States, or any place subject to their jurisdiction. Congress shall have power to enforce this article by appropriate legislation."

Amendment XIV, U.S. Constitution. Citizenship; Privileges and Immunities; Due Process; Equal Protection; Apportionment of Representation; Disqualification of Officers; Public Debt; Enforcement.

"Sec. 1 [Citizens of the United States.] All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Sec 2 [Representatives-Power to reduce apportionment.] Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Sec. 3 [Disqualification to hold office.] No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

Sec. 4 [Public debt not to be questioned-Debts of the Confederacy and claims not to be paid.] The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slaves; but all such debts, obligations, and claims shall be held illegal and void.

Sec. 5 [Power to enforce amendment.] The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

STATUTES

10 USCS

10 USCS § 331. Federal aid for State governments

Whenever there is an insurrection in any State against its government, the President may, upon the request of its legislature or its governor if the legislature cannot be convened, call into Federal service such of the militia of the other States, in the number requested by that State, and use such of the armed forces as he considers necessary to suppress the insurrection.
(Aug. 10, 1956, ch 1041, § 1, 70A Stat. 15.)

10 USCS § 333 (1999) Interference with State and Federal law.

The President, by using militia or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a State, and insurrection, domestic violence, unlawful combination, or conspiracy, if it-

(1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect that right, privilege, or immunity, or give that protection; or

(2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.
(Aug. 10, 1956, ch 1041, § 1, 70A Stat. 15.)

10 USCS § 380. Enhancement of cooperation with civilian law enforcement officials

(a) The Secretary of Defense, in cooperation with the Attorney General, shall conduct an annual briefing of law enforcement personnel of each State (including law enforcement personnel of the political subdivisions of each State) regarding information, training, technical support, and equipment and facilities available to civilian law enforcement personnel from the Department of Defense…
(b)-(c) Not shown in appendix here

16 USCS

16 USCS § 917. Congressional findings.

"The Congress finds that – (4) the conservation and protection of certain species of whales, including the California gray, bowhead, sperm, and killer whale, are of particular interest to citizens of the United States;…"

18 USCS

18 USCS § 241. Conspiracy against rights

If two or more -persons conspire- to-injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent

or hinder his free exercise or enjoyment of any right or privilege so secured. They shall be fined not more than $10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to imprisonment for any term of years or for life.

Clause making conspirator ineligible to hold office was omitted as incongruous because it attaches ineligibility to hold office to a person who may be a private citizen and who was convicted of conspiracy to violate a specific statute. There seems to be no reason for imposing such a penalty in the case of one individual crime, in view of the fact that other crimes do not carry such a severe consequence. The experience of the Department of Justice is that this unusual penalty has been an obstacle to successful prosecution for violations of the act. Mandatory punishment provision was rephrased in the alternative because the court has this discretion by making use of its power to suspend sentence under 18 USCS § 3651.
Minor changes in phraseology were made.

18 USCS § 242. Deprivation of rights under color of law

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects and inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; and if bodily injury results shall be fined under this title or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life."

18 USCS § 1341. Frauds and swindles

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing; shall be fined not more than $1,000 or imprisoned not more than five years, or both. If the violation affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.
(June 25, 1948 ch 645, § I, 62 Stat. 763; May 24, 1949, ch 139, § 34, 63 Stat. 94; Aug. 12, 1970, P.L. 91-375, § 6(j)(11), 84 Stat. 778; Aug. 9, 1989, P. L. 101-73, Title IX, Subtitle F, § 961(i), 103 Stat. 500; Nov. 29, 1990, P.L. 101-647, Title XXV, Subtitle A, § 2504(h), 104 Stat. 4861.

18 USCS § 1512. Tampering with a witness, victim, or informant

(a)(1) Whoever kills or attempts to kill another person, with intent to-

(A) prevent the attendance or testimony of any person in

an official proceeding;

(B) prevent the production of a record, document, or other object, in an official proceeding; or

(C) prevent the communication by any person to a law enforcement officer or judge of the United States of information relating to the commission of possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings; shall be punished as provided in paragraph (2).

(2) The punishment for an offense under this subsection is-

(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

(B) in the case of an attempt, imprisonment for not more than twenty years.

(b) Whoever knowingly uses intimidation or physical force, threatens or corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to-

(1) influence, delay or prevent the testimony of any person in an official proceeding;

(2) cause or induce any person to-

(A)..withhold testimony, or withhold a record, document, or other object with intent to impair the object's integrity or availability for use in an official proceeding;

(B) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

(C) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

(D) be absent from an official proceeding to which such person has been summoned by legal process; or

(3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible

commission of a Federal offense or ...;
shall be fined not more than $250,000 or imprisoned not more than ten years, or both.
(c) Whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades and person from –

(1) attending or testifying in an official proceeding;

(2) reporting to a law enforcement officer or judge of the United States the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

(3) arresting or seeking the arrest of another person in connection with a Federal offense; or ...
or attempts to do so, shall be fined not more than $25,000 or imprisoned not more than one year, or both.
(d) In a prosecution for an offense under this section, it is an affirmative defense, as to which the defendant has the burden of proof by a preponderance of the evidence, that the conduct consisted solely of lawful conduct...
(e) For the purposes of this section-

(1) an official proceeding need not be pending or about to be instituted at the time of the offense; and

(2) the testimony, or the record, document, or other object need not be admissible in evidence or free from the claim of privilege.

(f) ...
(g) ...
(h) A prosecution under this section or section 1503 may be brought in the district in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected or in the district in which the conduct constituting the alleged offense occurred.

18 USCS § 1513. Retaliating against a witness, victim, or an informant

(a) Whoever knowingly engages in any conduct and thereby causes bodily injury to another person or damages the tangible property of another person, or threatens to do so, with intent to retaliate against any person for-

(1) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

(2) any information relating to the commission or possible commission of a Federal offense or a violation of conditions...

or attempts to do so, shall be fined not more than $250,000 or imprisoned not more than ten years, or both.

(b) There is extraterritorial Federal jurisdiction over an offense under this section.

18 USCS § 1514. Civil action to restrain harassment of a victim or a witness

(a)(1) A United States district court, upon application of the attorney for the Government, shall issue a temporary restraining order prohibiting harassment of a victim or witness in a Federal criminal case if the court finds, from specific facts shown by affidavit or by verified complaint, that there are reasonable grounds to believe that harassment of an identified victim or witness in a Federal criminal case exists or that such order is necessary to prevent and restrain an offense under section 1512 of this title, other than an offense consisting of misleading conduct, under section 1513 of this title.

(2)(A) A temporary restraining order may be issued under this section without written or oral notice to the adverse party or such party's attorney in a civil action under this section if the court finds, upon written certification of facts by the attorney for the Government, that such notice should not be required and that there is a reasonable probability that the Government will prevail on the merits.

18 USCS § 1584. Sale into involuntary servitude

Whoever knowingly and willfully holds to involuntary servitude or sells into any condition of involuntary servitude, and person for any term, or brings within the United States any person so held, shall be fined not more than $5000 or imprisoned not more than five years, or both.
(June 24, 1948, ch 645, § 1, Stat. 773.)

18 USCS § 1951. Interference with commerce by threats or violence

(a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.
(b) As used in this section-

(1) The term "robbery" means the unlawful taking or obtaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or

possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining.

(2) The term "extortion" means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.

(3) The term "commerce" means commerce within the District of Columbia, or any Territory or Possession of the United States; all commerce between any point in a State, Territory, Possession, or the District of Columbia and any point outside thereof; all commerce between points within the same State through any place outside such State; and all other commerce over which the United States has jurisdiction.

(c) This section shall not be construed to repeal, modify or affect section 17 of Title 15 [15 USCS § 17], sections 52, 101-115, 151-166 of Title 29 or sections 151-188 of Title 45 [45 USCS §§ 151-188].

(June 25, 1948, ch 645, § 1, 62 Stat. 793; Sept. 13, 1994, P.L. 103-322, Title XXXIII, § 330016(1)(L), 108 Stat. 2147.)

18 USCS § 1952. Interstate and foreign travel or transportation in aid of racketeering enterprises

(a) Whoever travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to-

(1) distribute the proceeds of any unlawful activity; or

(2) commit any came of violence to further any unlawful activity; or

(3) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity, and thereafter performs or attempts to perform-

(A) an act described in paragraph (1) or (3) shall be fined under this title or imprisoned not more than 5 years, or both; or

(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years. or both, and if death results shall be imprisoned or any term of years or for life.

(b) As used in this section (i) "unlawful activity" means (l) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances as defined in section 102(6) of the Controlled Substances Act [21 USCS § 802 (b)], or prostitution offenses in violation of the laws of the State in which they are committed or of the United States, (2) extortion, bribery, or arson in violation of the laws of the State in which committed or of the United States, or (3) any act which is indictable under subchapter II of chapter II of charter 53 of title 31, United States Code, or under 1956 or of this ut a and (ii) the term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory or , possession of the United States.

(c) Investigations of violations under this section involving liquor shall be conducted under this supervision of the Secretary of the Treasury.

18 USCS § 1961. Definitions

As used in this chapter [18 USCS §§ 1961 et seq.]-

(1) "racketeering activity" means (A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 or the Controlled Substances Act [21 USCS § 802]), which is chargeable under State law and punishable by

imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title18, United States Code 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), sections 891-894 (relating to extortionate credit transactions), section 1028, (relating to fraud and related activity in connection with identification documents) , section 1029 (relating to fraud and related activity in connection with access devices), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud), section 1425 (relating to the procurement of citizenship or nationalization unlawfully) , section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization of citizenship papers), sections 1461-1465 (relating to obscene matter), section 1503 (relating to obstruction of justice , section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant), section 1542 (relating to a false statement in application and use of passport), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546 (relating to fraud and misuse of visas, permits, and other documents), sections 1581-1588 (relating to peonage and slavery), section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering

paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating tothe prohibition of illegal gambling businesses), section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), 2251, 2251A, 2252, and 2260 (relating to sexual exploitation of children), sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles), sections 2314 and 2315 (relating to interstate transportation of stolen property), section 2318 (relating to trafficking in counterfeit labels for phone records, computer programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 2319 (relating to criminal infringement of copyright), section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section 2320 (relating to trafficking in goods or services bearing counterfeit marks), section 2321 (relating to trafficking, in certain motor vehicles or motor vehicle parts), sections 2341-2346 (relating to trafficking in contraband cigarettes), sections 2421-24 (relating to white slave traffic), (C) an act which is indictable under title 29, United States Code, section 186 (dealing with restrictions on payments and loans to labor organizations) or section 501(c) (relating to embezzlement from union funds), (D) any offense involving fraud connected with a case under title 11 (except a case under section 157 of this title), fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act [21 USCS § 802]), punishable under any law of the United States, (E) any act which is indictable under the Currency and Foreign Transactions Reporting Act, (F) any act which is indictable

under the Immigration and Nationality Act, section 274 [8 USCS § 1324] (relating to bringing in and harboring certain aliens), section 277 [8 USCS § 1327] (relating to aiding or assisting certain aliens to enter the United States), or section 278 (8 USCS § 1328] (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain, or (G) any act that is indictable under any provision listed in section 2332b(g)(5)(B);

(2) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof;

(3) "person" includes any individual or entity capable of holding a legal or beneficial interest in property;

(4) "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;

(5) "pattern of racketeering activity" requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;

(6) "unlawful debt" means a debt (A) incurred or contracted in gambling activity which was in violation of the law of the United States, a State or political subdivision thereof, or which is unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury, and (B) which was incurred in connection with the business of gambling in violation of the law of the United States, a State or political subdivision thereof, or the business of lending money or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate;

(7) "racketeering investigator" means an attorney or investigator so designated by the Attorney General and charged with the duty of enforcing or carrying into effect this chapter [18 USCS §§ 1961 et seq.];
(8) "racketeering investigation" means any inquiry conducted by any racketeering investigator for the purpose of ascertaining whether any person has been involved in any violation of this chapter [18 USCS §§ 1961 et seq.] or of any order, judgment, or decree of any court of the United States, duly entered in any case or proceeding arising under this chapter [18 USCS §§ 1 61 et seq.];
(9) "documentary material" includes any book, paper, document, record, recording, or other material; and
(10) "Attorney General" includes the Attorney General of the United States, the Deputy Attorney General of the United States, the Associate Attorney General of the United States, any Assistant Attorney General of United States, or any employee of the Department of Justice or any employee of any department or agency of the United States so designated by the Attorney General to carry out the powers conferred on the Attorney General by this chapter [18 USCS §§ 1961 et seq.]. Any department.or agency so designated may use in investigations authorized by this chapter [18 USCS §§ 1961 et seq.] either the investigative provisions of this chapter [18 USCS §§ 1961 et seq.] or the investigative power of such department or agency otherwise conferred by law.

18 USCS § 2241. Aggravated sexual abuse

(a) By force or threat. Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly causes another person to engage in a sexual act-

(1) by using force against that other person; or

(2) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping;
or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

(b) By other means. Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly-

(1) renders another person unconscious and thereby engages in a sexual act with that other person; or

(2) administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby

(A) substantially impairs the ability of that other person to appraise or control conduct; and

(B) engages in a sexual act with that other person;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

(c) With children. Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who has not attained the age of 12 years, or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

(d) State of mind proof requirement. In a prosecution under subsection (c) of this section, the Government need not prove that the defendant knew that the other person engaging in the sexual act had not attained the age of 12 years.

(Added Nov. 10, 1986, P. L. 99-646, § 87(b), 100 Stat. 3620 and Nov. 14, 1986, P.L. 99-654, § 2, 100 Stat. 3660.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES
Explanatory notes:

Identical sections 2241 were added by Act Nov. 10, 1986 and Act Nov. 14, 1986.
Effective date of section:
Act Nov. 10, 1986, P.L. 99-646, § 87(e), 100 Stat. 3624 and Act Nov. 14, 1986, P.L. 99-654, § 4, 100 Stat. 3664, both of which appear as a note to this section, provide that this section shall take effect 30 days after their respective enactment.

18 USCS § 2242. Sexual abuse

Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly-

(1) causes another person to engage in a sexual act by threatening or placing that other person in fear (other than by threatening or placing that other person in fear that (other than by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping); or

(2) engages in a sexual act with another person if that other person is-

(A) incapable of appraising the nature of the conduct; or

(B) physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act;

or attempts to do so, shall be fined under this title, imprisoned not more than 20 years, or both.

18 USCS § 2243. Abusive sexual conduct.

(a) Sexual conduct in circumstances where sexual acts are punished by this chapter [18 USCS §§ 2241 et seq] Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in or causes sexual contact with or by another person, if so to do would violate-

(1) section 2241 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than ten years, or both;

(2) section 2242 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than three years, or both;

...

(b) In other circumstances. Whosoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in sexual contact with another person without that other person's permissions shall be fined not more than $5,000, imprisoned not more than six months, or both.

18 USCS, Chapter 313. Offenders with Mental Disease or Defect. § 4241 et seq.

18 USCS § 4241. Determination of mental competency to stand trial

(a) Motion to determine competency of defendant. At any time after the commencement of a prosecution for an offense and prior to the sentencing of the defendant, the defendant or

the attorney for the Government may file a motion for a hearing to determine the mental competency of the defendant. The court shall grant the motion, or shall order such a hearing on its own motion, if there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequence of the proceedings against him or to assist him or to assist properly in his defense.
(b) Psychiatric or psychological examination and report. Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant he conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c).
(c)-(e) Not reproduced

22 USCS

22 USCS § 6401. International Religious Freedom. Findings; policy

(a) Findings. Congress makes the following findings:
(1) The right to freedom of religion undergirds the very origin and existence of the United States. Many of our Nation's founders fled religious persecution abroad, cherishing in their hearts and minds the ideal of religious freedom. They established in law, as a fundamental right and as a pillar of our Nation, the right to freedom of religion. From its birth to this day, the United States has prized this legacy of religious freedom and honored this heritage by standing for religious freedom and offering refuge to those suffering religious persecution.
(2) Freedom of religious belief and practice is a universal human right and fundamental freedom articulated in numerous international instruments, including the Universal

Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Helsinki Accords, the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, the United Nations Charter, and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

(3) Article 18 of the Universal Declaration of Human Rights recognizes that "Everyone has the right to freedom of thought, conscience, and religion. This right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance." Article 18(1) of the International Covenant on Civil and Political Rights recognizes that "Everyone shall have the right to freedom of thought, conscience, and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching". Governments have the responsibility to protect the fundamental rights of their citizens and to pursue justice for all. Religious freedom is a fundamental right of every individual, regardless of race, sex, country, creed, or nationality, and should never be arbitrarily abridged by any government.

(4) The right to freedom of religion is under renewed and, in some cases, increasing assault in many countries around the world. More than one-half of the world's population lives under regimes that severely restrict or prohibit the freedom of their citizens to study, believe, observe, and freely practice the religious faith of their choice. Religious believers and communities suffer both government-sponsored and government-tolerated violations of their rights to religious freedom. Among the many forms of such violations are state-sponsored slander campaigns, confiscations of property, surveillance by security police, including by special divisions

of "religious police", severe prohibitions against construction and repair of places of worship denial of the right to assemble and relegation of religious communities to illegal status through arbitrary registration laws, prohibitions against the pursuit of education or public office, and prohibitions against publishing, distributing, or possessing religious literature and materials.

(5) Even more abhorrent, religious believers in many countries face such severe and violent forms of religious persecution as detention, torture, beatings, forced marriage, rape, imprisonment, enslavement, mass resettlement, and death merely for the peaceful belief in, change of or practice of their faith. In many countries, religious believers are forced to meet secretly, and religious leaders are targeted by national security forces and hostile mobs.

(6) Though not confined to a particular region or regime, religious persecution is often particularly widespread, systematic, and heinous under totalitarian governments and in countries with militant, politicized religious majorities.

(7) Congress has recognized and denounced acts of religious persecution through the adoption of the following resolutions:

(A) House Resolution 515 of the One Hundred Fourth Congress, expressing the sense of the House of Representatives with respect to the persecution of Christians worldwide.

(B) Senate Concurrent Resolution 71 of the One Hundred Fourth Congress, expressing the sense of the Senate regarding persecution of Christians worldwide.

(C) House Concurrent Resolution 102 of the One Hundred Fourth Congress, expressing the sense of the House of Representatives concerning the emancipation of the Iranian Baha'i community.

(b) Policy. It shall be the policy of the United States, as follows:

(1) To condemn violations of religious freedom, and to promote, and to assist other governments in the promotion of, the fundamental right to freedom of religion.
(2) To seek to channel United States security and development assistance to governments other than those found to be engaged in gross violations of the right to freedom of religion, as set forth in the Foreign Assistance Act of 1961 [22 USCS §§ 2151 et seq.], in the International Financial Institutions Act of 1977, and in other formulations of United States human rights policy.
(3) To be vigorous and flexible, reflecting both the unwavering commitment of the United States to religious freedom and the desire of the United States for the most effective and principled response, in light of the range of violations of religious freedom by a variety of persecuting regimes, and the status of the relations of the United States with different nations.
(4) To work with foreign governments that affirm and protect religious freedom, in order to develop multilateral documents and initiatives to combat violations of religious freedom and promote the right to religious freedom abroad.
(5) Standing for liberty and standing with the persecuted, to use and implement appropriate tools in the United States foreign policy apparatus, including diplomatic, political, commercial, charitable, educational, and cultural channels, to promote respect for religious freedom by all governments and peoples.
(Oct. 27, 1998, P. L. 105-292, § 2, 112 Stat. 2788.)

22 USCS § 7101 (2003) Trafficking Victims Protection. Purposes and findings

22 USCS §7101. Purposes and findings

(a) Purposes. The purposes of this division are to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of trafficker, and to protect their victims.

(b) Findings. Congress finds that:
(1) As the 21st century begins, the degrading institution of slavery continues throughout the world. Trafficking in persons is a modem form of slavery, and it is the largest manifestation of slavery today. At least 700,000 persons annually, primarily women and children, are trafficked within or across international borders. Approximately 50,000 women and children are trafficked into the United States each year.
(2) Many of these persons are trafficked into the international sex trade, often by force, fraud, or coercion. The sex industry has rapidly expanded over the past several decades. It involves sexual exploitation of persons, predominantly women and girls, involving activities related to prostitution, pornography, sex tourism, and other commercial sexual services. The low status of women in many parts of the world has contributed to a burgeoning of the trafficking industry.
(3) Trafficking in persons is not limited to the sex industry. This growing transnational crime also includes forced labor and involves significant violations of labor, public health, and human rights standards worldwide.
(4) Traffickers primarily target women and girls, who are disproportionately affected by poverty, the lack of access to education, chronic unemployment, discrimination, and the lack of economic opportunities in countries of origin. Traffickers lure women and girls into their networks through false promises of decent working conditions at relatively good pay as nannies, maids, dancers, factory workers. restaurant workers, sales clerks, or models. Traffickers, also

buy children from poor families and sell them into prostitution or into various types of forced or bonded labor.
(5) Traffickers often transport victims from their home communities to unfamiliar destinations, including foreign countries away from family and friends, religious institutions, and other sources of protection and support, leaving the victims defenseless and vulnerable.
(6) Victims are often forced through physical violence to engage in sex acts or perform slavery like labor. Such force includes rape and other forms of sexual abuse, torture, starvation, imprisonment, threats, psychological abuse, and coercion.
(7) Traffickers often make representations to their victims that physical harm may occur to them or others should the victim escape or attempt to escape. Such representations can have the same coercive effects on victims as direct threats to inflict such harm.
(8) Trafficking in persons is increasingly perpetrated by organized, sophisticated criminal enterprises. Such trafficking is the fastest growing source of profits for organized criminal enterprises worldwide. Profits from the trafficking industry contribute to the expansion of organized crime in the United States and worldwide. Trafficking in persons is often aided by official corruption in countries of origin, transit, and destination, thereby threatening the rule of law.
(9) Trafficking includes all the elements of the crime of forcible rape when it involves the involuntary participation of another person in sex acts by means of fraud, force, or coercion.
(10) Trafficking also involves violations of other laws, including labor and immigration codes and laws against kidnapping, slavery, false imprisonment, assault, battery, pandering, fraud, and extortion.
(11) Trafficking exposes victims to serious health risks. Women and children trafficked in the sex industry are

exposed to deadly diseases, including HIV and AIDS. Trafficking victims are sometimes worked or physically brutalized to death.

(12) Trafficking in persons substantially affects interstate and foreign commerce. Trafficking for such purposes involuntary servitude, peonage, and other forms of forced labor has an impact on the nationwide employment network and labor market. Within the context of slavery, servitude, and labor or services which are obtained or maintained through coercive conduce that amounts to a condition of servitude, victims are subjected to a range of violations.

(13) Involuntary servitude statutes are intended to reach cases in which persons are held in a condition of servitude through nonviolent coercion. In United States v. Kozminski, 487 U.S. 931 [101 L. Ed. 2d 788] (1988), the Supreme Court found that section 1584 of title 18, United States Code, should he narrowly interpreted, absent a definition of involuntary servitude by Congress. As a result, that section was interpreted to criminalize only servitude that is brought about through use or threatened use of physical or legal coercion, and to exclude other conduct that can have the same purpose and effect.

(14) Existing legislation and law enforcement in the United States and other countries are inadequate to deter tracking and bring traffickers to justice,-failing to reflect the gravity of the offenses involved. No comprehensive law exists in the United States that penalizes the range of offenses involved in the trafficking scheme. Instead, even the most brutal instances of trafficking in the sex industry are often punished under laws that also apply to lesser offenses, so that traffickers typically escape deserved punishment.

(15) In the United States, the seriousness of this crime and its components is not reflected in current sentencing guidelines, resulting in weak penalties for convicted traffickers.

(16) In home countries, enforcement against traffickers is also hindered by official indifference, by corruption, and sometimes even by official participation in trafficking.
(17) Existing laws often fail to protect victims of trafficking, and because victims are often illegal immigrants in the destination country, they are repeatedly punished more harshly than the traffickers themselves.
(18) Additionally, adequate services and facilities do not exist to meet victims needs regard health care, housing, education, and legal assistance, which safely reintegrate trafficking victims into their home countries.
(19) Victims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked, such as using false documents, entering the country without documentation, or working without documentation.
(20) Because victims of trafficking are frequently unfamiliar with the laws, cultures, and languages of the countries into which they have been trafficked, because they are often subjected to coercion and intimidation including physical detention and debt bondage, and because they often fear retribution and forcible removal to countries in which they will face retribution or other hardship, these victims often find it difficult or impossible to report the crimes committed against them or to assist in the investigation and prosecution of such crimes.
(21) Trafficking of persons is an evil requiring concerted and vigorous action by countries of origin, transit or destination, and by international organizations.
(22) One of the founding documents of the United States, the Declaration of Independence, recognizes the inherent dignity and worth of all people. It states that all men are created equal and that they are endowed by their Creator with certain unalienable rights. The right to be free from slavery and involuntary servitude is among those unalienable rights.

Acknowledging this fact, the United States outlawed slavery and involuntary servitude in 1865, recognizing them as evil institutions that must be abolished. Current practices of sexual slavery and trafficking of women and children are similarly abhorrent to the principles upon which the United States was founded.

(23) The United States and the international community agree that trafficking in persons involves grave violations of human rights and is a matter of pressing international concern. The international community has repeatedly condemned slavery and involuntary servitude, violence against women, and other elements of trafficking, through declarations, treaties, and United Nations resolutions and reports, including the Universal Declaration of Human Rights; the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the 1948 American Declaration on the Rights and Duties of Man; the 1957 Abolition of Forced Labor Convention; the International Covenant on Civil and Political Rights: the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; United Nations General Assembly Resolutions 50/167, 51/66, and 52/98; the Final Report of the World Congress against Sexual Exploitation of Children (Stockholm, 1996); the Fourth World Conference on Women (Beijing, 1995); and the 1991 Moscow Document of the Organization for Security and Cooperation in Europe.

(24) Trafficking in persons is a transnational crime with national implications. To deter international trafficking and bring its perpetrators to justice, nations including the United States must recognize that trafficking is a serious offense. This is done by prescribing appropriate punishment giving priority to the prosecution of trafficking offenses, and protecting rather than punishing the victims of such offenses. The United States must work bilaterally and multilaterally to abolish the trafficking industry by taking steps to promote

cooperation among countries linked together by international trafficking routes. The United States must also urge the international community to take strong action in multilateral fora to engage recalcitrant countries in serious and sustained efforts to eliminate trafficking and protect trafficking victims. (Oct. 28, 2000, P. L. 106-386, Div A, § 102, 114 Stat. 1466.)

28 USCS

28 USCS § 1733. Government records and papers; copies

(a) Books or records of account of minutes of proceedings of any department or agency of the United States shall be admissible to prove the act, transaction or occurrence as a memorandum of which the same were made or kept.
(b) Properly authenticated copies or transcripts of any books, records, papers or documents of any department or agency of the United States shall be admitted in evidence equally with the originals thereof.
(c) This section does not apply to cases, actions, and proceedings to which the Federal Rules of Evidence apply.

42 USCS

42 USCS § 1981. Equal rights under the law

(a) Statement of equal rights.
(b) "Make and enforce contracts" defined.
(c) Protection against impairment.
†981a. Damages in cases of intentional discrimination in employment
(a) Right of recovery.
(b) Compensatory and punitive damages.

(c) Jury trial.
(d) Definitions.
1982. Property rights of citizens

GENERALLY

(a) Statement of equal rights. All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make enforce contracts, to sue, be parties, give evidence, and to the full and eq benefit of all laws and proceedings for the security of persons and property is enjoyed by white citizens, and shall be subject to like punishment, pal penalties, taxes, licenses, and exactions of every kind, and to no other.

(b) "Make and enforce contracts" defined. For purposes of this section, the term make and enforce contracts". includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.
(c) Protection. against Impairment. The rights protected by this section protected against impairment by nongovernmental discrimination and impairment under color of State law.

42 USCS § 1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act

or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia.'(R. S. § 1979; Dec. 29, 1979, P.L 96-170, §1, 93 Stat 1284, Oct 19, 1996, P. L. 104-317, Title III, § 309(c), 110 Stat. 3853.)

42 USCS § 1985. Conspiracy to interfere with civil rights

(1) If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district or place, where his duties as an officer of the United States to leave any State, district or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

(2) Obstructing justice; intimidating party, witness, or juror. If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or his being or having been such juror; or if two or more

persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(3) Depriving persons of rights or privileges. If two or more persons in any State or Territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or or of equal privileges and immunities under the laws, or for the purpose of preventing or hindering all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice-President, or as a member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators. (R.S. § 1980.)

42 USCS § 1986. Conspiracy to interfere with civil rights

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in the preceding section [42 USCS § 1985], are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case on the case; and any number of persons guilty of such wrongful neglect or refusal maybe joined as defendants in the action, and if the death of any party be caused buy any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefore, and may recover not exceeding five thousand dollars damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under this provisions of this section shall be sustained which is not commenced within one year after the cause of action accrued. (R.S. § 1981.)

42 USCS § 2000b-2. Personal suits for relief against discrimination in public facilities

Nothing in this title [42 USCS §§ 2000b-2000b-3] shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in any facility covered by this title [42 USCS §§ 2000b-2000b-3].

(July 2, 1964, P.L. 88-352, Title III, § 303, 78 Stat. 246.)

42 USCS § 2000 e. Definitions

For the purposes of this title [42 USCS §§ 2000e et seq.]-

(a) The term "person" includes one or more individuals, governments. governmental agencies, political subdivisions, labor union,s, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11. United States Code, or receivers.
(b) Tile term "employer" means a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Goverment of the United States, an Indian tribe, or any department or agency of the District of Columbia subject by statute to procedures of the competitive service (as defined in section 2102 of title 5 of the United States Code) or (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of the Internal Reveuue Code of 1954 [26 USCS § 501(c)] except that during the first year after the date of enactment of the Equal Employment Opportunity Act of 1972 [enacted March 24, 1972], persons having fewer than twenty-five employees (and their agents) shall not be considered employers.
(c) The term "employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person.
(d) not necessary for this petition
(e) not necessary for this petition
(f) The term "employee" means an individual employed by an employer. except that the term "employee" shall not include any person elected to public offce in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such

officer's personal staff, or an appointee on the policy making level or an immediate adviser with respect to the exercise of the constitutiooal or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency or political subdivision. With respect to employment in a foreign country, such term includes an individual who is a citizen of the United States.
(g) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.
(h) The term "industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" witttin the meaning of the Labor-Management Reporting and Disclosure Act of 1959 [29 USCS §§ 40l et seq.], and further includes any governmental industry, business, or activity.
(i) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa. Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act [43 USCS §§ 1331 et seq.].
(j) The term "religion" includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.
(k) The terms "because of sex" or "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and

women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in section 703(h) of this title [42 USCS § 2000e-2(h)] shall be interpreted to permit otherwise. This subsection shall not require an employer to pay for health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term, or except where medical complications have arisen from an abortion: *Provided*, That nothing herein shall preclude an employer from providing abortion benefits or otherwise affect bargaining agreements in regard to abortion.

(l) The term "complaining party" means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

(m) The term "demonstrates" means meets the burdens of production and persuasion.

(n) The term "respondent" means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining program, including an on-the-job training program or Federal entity subject to section 717.

42 USCS. § 2000e-2. Unlawful employment practices

(a) Employer practices. It shall be an unlawful employment practice for an employer-

> (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, or classify his- employees or applicants for employment any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

(b) Employment agency practices. It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

(c) Not necessary for this petition.

(d) Not necessary for this petition.

(e) Businesses or enterprises with personnel qualified on basis of religion, sex, or national origin; educational institutions with personnel of particular religions. Notwithstanding any other provision of this title [42 USCS §§ 2000e et seq.], (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college,

university, or other educational institution or institution of learning to hire and employ employees of a particular religion if -such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

(f) Members of Communist Party or Communist-action or Communist- front organizations. As used in this title [42 USCS §§ 2000e et seq.], the phrase "unlawful employment practice" shall not be deemed to include any action or measure taken by an employer, labor organization, joint labor-management committee, or employment agency with respect to an individual who is a member of the Communist Party of the United States or of any other organization required to register as a Communist-action or Communist-front organization by final order of the Subversive Activities Control Board pursuant to the Subversive Activities Control Act of 1950.

(g) National security. Notwithstanding any other provision of this title [42 USCS §§ 2000e et seq.], it shall not be an unlawful employment practice for an employer to fail or refuse to hire and employ any individual for any position, for an employer to discharge any individual from any position, or for an employment agency to fail or refuse to refer any individual for employment in any position, or for a labor organization to fail or refuse to refer any individual for employment in any position, if-

(1) the occupancy of such position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute of the United States or any Executive order of the President; and

(2) such individual has not fulfilled or has ceased to fulfill that requirement.

(h) Not necessary for this petition.

(i) Not necessary for this petition.

(j) Preferential treatment not to be granted on account of existing number or percentage imbalance. Nothing contained in this title [42 USCS §§ 2000e et seq.] shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title [42 USCS §§ 2000e et seq.] to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by an employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

(k) Burden of proof in disparate impact cases. (1)(A) An unlawful employment practice based on disparate impact is established under this title only if-

(i) a complaining party demonstrates that a respondent uses a particular employment practice that causes a disparate impact on the basis of race, color, religion, sex, or national origin and the respondent fails to demonstrate that the challenged practice is job related for the position in question and consistent with business necessity; or

(ii) the complaining party makes the demonstration described in subparagraph (C) with respect to an alternative employment practice and the respondent refuses to adopt such alternative employment practice.

(B)(i) With respect to demonstrating that a particular employment practice causes a disparate impact as described in subparagraph (A)(i), the complaining party shall demonstrate that each particular challenged employment practice causes a disparate impact, except that if the complaining party can demonstrate to the court that the elements of a respondent's decision making process are not capable of separation for analysis, the decision making process may be analyzed as one employment practice. (ii) If the respondent demonstrates that a specific employment practice does not cause the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity.

(C) The demonstration referred to by subparagraph (A)(ii) shall be in accordance with the law as it

existed on June 4, 1989, with respect to the concept of "alternative employment practice".

(2) A demonstration that an employment practice is required by business necessity may not be used as a defense against a claim of intentional discrimination under this title.
(3) Notwithstanding any other provision of this title [42 USCS §§ 2000e et seq.], a rule barring the employment of an individual who currently and knowingly uses or possesses a controlled substance, as defined in schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of race, color, religion, sex, or national origin.

(l) Prohibition of discriminatory use of test scores. It shall be an unlawful employment practice for a respondent, in connection with the selection or referral of applicants or candidates for employment or promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the results of, employment related tests on the basis of race, color, religion, sex, or national origin.

(m) Impermissible consideration of race, color, religion, sex, or national origin in employment practices. Except as otherwise provided in this title [42 USCS§§ 2000e et seq.], an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a motivating factor for any employment practice, even though other factors also motivated the practice.

(n) Resolution of challenges to employment practices implementing litigated or consent judgments or orders.

(1)(A) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements and is within the scope of a litigated or consent judgment or order that resolves a claim of employment discrimination under the Constitution or Federal civil rights laws may not be challenged under the circumstances described in subparagraph (B).

(B) A practice described in subparagraph (A) may not be challenged in a claim under the Constitution or Federal civil rights laws-

(i) by a person who, prior to the entry of the judgment or order described in subparagraph (A), had-

(I) actual notice of the proposed judgment or order sufficient to apprise such person that such judgment or order might adversely affect the interests and legal rights of such person and that an opportunity was available to present objections to such judgment or order by a future date certain; and

(II) a reasonable opportunity to present objections to such judgment or order; or

(ii) by a person whose interests were adequately represented by another person who had previously challenged the judgment or order on the same legal grounds and with a similar factual situation, unless there has been an intervening change m law or fact.

(2) Nothing in this subsection shall be construed to-

(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which the parties intervened;
(B) apply to the rights of parties to the action in which a litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal Government;
(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or
(D) authorize or permit the denial to any person of the due process of law required by the Constitution.

(3) Any action not precluded under this subsection that challenges an employment consent judgment or order described in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.

42 USCS § 2000e-3. Other unlawful employment practices

(a) Discrimination for making charges, testifying, assisting, or participating in enforcement proceedings. It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual, or for a labor organization to discriminate against any member thereof or

applicant for membership, because he has Opposed any Practice made an unlawful employment practice by this title [42 USCS §§ 2000e-2000e-17], or because he has made a charge, testified, assisted, or participated in any manner in an investigation, Proceeding, or hearing under this title [42 investigation, Proceeding, or hearing under this title [42 USCS §§ 2000e-2000e-171.1

(b) Not necessary for this petition.

42 § 2000e-5. Enforcement provisions

(a) Power of Commission to prevent unlawful employment practices. The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth m section 703 or 704 of this title [42 USCS §§ 2000e-2 or 2000e-3].

(b) Charges by persons aggrieved or member of Commission of unlawful employment practices by employers, etc.; filing; allegations; notice to respondent; contents of notice; investigation by Commission; contents of charges; prohibition on disclosure of charges; determination of reasonable cause; conference, conciliation, and persuasion for elimination of unlawful practices; prohibition on disclosure of informal endeavors to end unlawful practices; use of evidence in subsequent proceedings; penalties for disclosure of information; time for determination of reasonable cause. Whenever a charge is made by or on behalf of a person claiming to be aggrieved, or by a member of the Commission, alleging that an employer, employment agency, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, has engaged in an unlawful employment practice, the

Commission shall serve a notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) on such employer, employment agency, labor organization, or joint labor-management committee (hereinafter referred to as the "respondent") within ten days, and shall make an investigation thereof. Charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Commission requires. Charges shall not be made public by the Commission. If the Commission determines after such investigation that there is not reasonable cause to believe that the charge is true, it shall dismiss the charge and promptly notify the person claiming to be aggrieved and the respondent of its action. In determining whether reasonable cause exists, the Commission shall accord substantial weight to final findings and orders made by State or local authorities in proceedings commenced under State or local law pursuant to the requirements of subsections (c) and (d). If the Commission determines after such investigation that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such informal endeavors may be made public by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the persons concerned. Any person who makes public information in violation of this subsection shall be fined not more than $1,000 or imprisoned for not more than one year, or both. The Commission shall make its determination on reasonable cause as promptly as possible and, so far as practicable, not later than one hundred and twenty days from the filing of the charge or, where applicable under subsection (c) or (d), from the date upon which the Commission is authorized to take action with respect to the charge.

(c) Not necessary for this petition.

(d) State or local enforcement proceedings; notification of State or local authority; time for action on charges by Commission. In the case of any charge filed by a member of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials and, upon request, afford them a reasonable time, but not less than sixty days (provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective day of such State or local law), unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

(e) Not necessary for this petition.

(f) Civil action by Commission, Attorney General, or person aggrieved; preconditions; procedure; appointment of attorney; payment of fees, costs, or security; intervention; stay of Federal proceedings; action for appropriate temporary or preliminary relief pending final disposition of charge; jurisdiction and venue of United States courts; designation of judge to bear and determine can; assignment of case for hearing; expedition of case; appointment of master…

(g) Not necessary for this petition.

(h) Provisions of 29 USCS §§ 101 et seq. not applicable to civil actions for prevention of unlawful practices. The

provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932 (29 U.S.C. 101-115), shall not apply with respect to civil actions brought under this section.

(i) Proceedings by Commission to compel compliance with judicial orders. In any case in which an employer, employment agency, or labor organization fails to comply with an order of a court issued in a civil action brought under this section, the Commission may commence proceedings to compel compliance with such order.

42 USCS § 2000bb. Religious Freedom Restoration Act of 1993 Congressional findings and declaration of purposes

(a) Findings. The Congress finds that-

(1) the framers of the Constitution, recognizing free exercise of religion as an unalienable right, secured its protection in the First Amendment to the Constitution;

(2) laws "neutral" toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise;

(3) governments should not substantially burden religious exercise without compelling justification;

(4) in Employment Division v. Smith, 494 U.S. 872 (1990) the Supreme Court virtually eliminated the requirement that the government justify burdens on religious exercise imposed by laws neutral toward religion; and

(5) the compelling interest test as set forth in prior Federal court rulings is a workable test for striking sensible balances between religious liberty and competing prior governmental interests.

(b) Purposes. The purposes of this Act are-

(1) to restore the compelling interest test as set forth in *Sherbert v. Verner*, 374 U.S. 398 (1963) and *Wisconsin v. Yoder*, 406 U.S. 205 (1972) and to guarantee its application in all cases where free exercise of religion is substantially burdened; and

(2) to provide a claim or defense to persons whose religious exercise is substantially burdened by government. (Nov. 16, 1993, P.L. 103-141, § 2, 107 Stat. 1488.)

Religious Freedom Restoration Act of 1993, which appears generally as 42 USCS §§ 2000bb et seq. For full classification of this Act, consult USCS Tables volumes.

42 USCS § 2000bb-1. Free exercise of religion protected

(a) In general. Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b).

(b) Exception. Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person-

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) Judicial relief. A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(Nov, 16, 1993, P.L. 103-141, § 3, 107 Stat. 1488.)

50 USCS.

50 USCS Appx §§ 501. et. seq. Soliders' and Sailors' Civil Relief Act of 1940.

50 USCS Appx §§ 510. Purpose; suspension of enforcement of civil liabilities

In order to provide for, strengthen, and expedite the national defense under the emergent conditions which are threatening the peace and security of the United States and to enable the United States the more successfully to fulfill the requirements of the national defense, provision is hereby made to suspend enforcement of civil liabilities, in certain cases, of persons in the military service of the United States in order to enable such persons to devote their entire energy to the defense needs of the Nation, and to this end the following provisions are made for the temporary suspension of legal proceedings and transactions which may prejudice the civil rights of persons in such service during the period herein specified over which this Act [50 USCS Appx. §§ 501 et seq.] remains in force.
(Oct. 17, 1940, ch 888, § 100, 54 Stat. 1179.)

50 USCS Appx §§ 511. Definitions

(1) The term "person in military service", the term "persons in military service", and the term "persons in the military service of the United States", as sued in this Act [50 USCS Appx. §§ 501 et seq.], shall include the following persons and no others: All members of the Army of the United States, ... The term "military service", as used in this Act

[50 USCS Appx. §§ 501 et seq.], shall signify Federal service on active duty either with any branch of the service heretofore referred to or mentioned as well as training and education under the supervision of the United States preliminary to induction into the military service. The terms 'active service" or "active duty" shall include the period during which a person in military service is absent from duty on account of sickness, wounds, leave, or other lawful cause.

(2) The term "period of military service", as used in this Act [50 USCS Appx,. §§ 501 et seq.], means, in the case of any person, the period beginning on the date on which the person enters active service and ending on the date of the person's release from active service or death while in active service, but in no case later than the date this Act {50 USCS Appx §§ 501 et seq.] ceases to be in force.

(3) The term "person", when used in this Act [50 USCS Appx. §§ 501 et seq.], with reference to the holder of any right alleged to exist against a person in military service or against a person secondarily liable under such right, shall include individuals, partnerships, corporations, and any other forms of business association.

(4) The term "court", as used in this Act [50 USCS Appx. §§ 501 et seq.], shall include any court of court of competent jurisdiction of the United States or of any State, whether or not a court of record.

50 USCS Appx §§ 512. Territorial application; jurisdiction of courts; form of procedure

(1) The provisions of this Act [50 USCS Appx. §§ 501 et seq.] shall apply to the United States, the several States and Territories, the District of Columbia, and all territory subject to the jurisdiction of the United States and to proceedings

commenced in any court therein, and shall be enforced through the usual forms of procedure obtaining in such courts or under such regulations as may be by them prescribed.

(2) When under this Act [50 USCS Appx. §§ 501 et seq.] any application is required to be made to a court in which no proceeding has already been commenced with respect to the matter, such application may be made to any court.

50 USCS Appx §§ 516. Extension of benefits to persons ordered to report for induction or military service

Any person who has been ordered to report for ..., and any member of the reserve component of the Armed Forces who is ordered to report for military service shall be entitled to such relief and benefits during the period beginning on date of receipt of such order and ending on the date upon which such member reports for military service or the date on which the order is revoked, whichever is earlier."

50 USCS Appx §§ 521. Stay of proceedings where military service effects conduct thereof

At any stage thereof any action or proceedings in any court in which a person in military service is involved, either as plaintiff or defendant, during the period of such service or within sixty days thereafter may, in the discretion of the court in which it is pending, on its own motion, and shall, on application to it by such person or some person on his behalf, be stayed as provided in this Act [50 USCS Appx. §§ 501 et seq.], unless, in the opinion of the court, the ability of the plaintiff to prosecute the action or the defendant to conduct his defense is not materially affected by reason of his military service.

50 USCS Appx. §§ 523. Stay or vacation of execution of judgments, attachments, etc.

In any action or proceeding commenced in any court against a person in military service, before or during the period of such service, or within sixty days thereafter, the court may, in its discretion, on its discretion, on its own motion, or on application to it by such person or some person on his behalf shall, unless in the opinion of the court the ability of the defendant to comply with the judgment or order entered or sought is not materially affected by reason of his military affected by reason of his military service-

(a) Stay the execution of any judgment or order entered against such person, as provided in this Act [50 USCS Appx. §§ 501 et seq.]; and

(b) Vacate or stay any attachment or garnishment of property, money, or debts in the hands of another, whether before or after judgment as provided in this Act [50 USCS Appx. §§ et seq.].

50 USCS Appx. §§ 525. Statutes of limitations as affected by period of service.

"The period of military service shall not be included in computing any period now or hereafter to be limited by any law, regulation, or order for the bringing of any action or proceeding in any court … by or against any person in military service…, whether such cause of action or the right or the right or privilege to institute such action or proceeding shall have accrued prior to or during the period of such service…"

50 USCS § 1801 (1996) Electronic Surveillance, Definitions

d. "Sabotage" means activities that involve a violation of chapter 105 of title 18, US Code, [18 USCS §§ 2151 et seq.]
k. "Aggrieved person" means a person who is the target of an electronic surveillance or any other person whose communications or activities were subject to electronic surveillance.
m. "Person" means any individual, including any officer or employee of the Federal Government, or any group, entity association.

California

California Penal Code, § 205. Aggravated Mayhem

A person is guilty of aggravated mayhem when he or she unlawfully, under circumstances manifesting extreme indifference to the physical or psychological well-being of another person, intentionally causes permanent disability or disfigurement of another or deprives a human being of a limb, organ, or member of his or her body... it is not necessary to prove an intent to kill. Agg. Mayhem is a felony... imprisonment for life with the possibility of parole.

California Penal Code, § 207. Kidnapping defined

(a) every person who forcibly, or by any other means of instilling fear, steals or takes, or holds, detains, ... and carries the person into another country, state, or county, or into another part of the same county, is guilty of kindnapping.

(c) Every person who forcibly, or by any means of instilling fear, takes or holds, detains, or arrests any person, with a design to take the person out of this state, … or who hires, persuades, entices, decoys, or seduces by false promises, misrepresentations, or the like, any person to go out of this state, or to be taken out of this state, or removed therefrom, for the purpose and with the intent to sell that person into slavery or involuntary servitude, or otherwise to employ that person for his or her own use, ore to the use of another without the free will and consent of that persuaded person, ids guilty of kidnapping.

Colorado Revised Statutes (C.R.S.)

C.R.S. 13-6-106 (2002). Original Criminal Jurisdiction

1) The county court shall have concurrent original jurisdiction with the district court in the following criminal matters:

(a) Criminal actions for the violation of state laws which constitute misdemeanors or petty offenses, except those actions involving children over which the juvenile court of the city and county of Denver or the district courts of the state, other than in Denver, have exclusive jurisdiction;

(b) The issuance of warrants, the conduct of preliminary examinations, the conduct of dispositional hearings pursuant to section 16-5-301 (1), C.R.S., and section 18-1-404 (1), C.R.S., the issuance of bind over orders, and the admission to bail in felonies and misdemeanors.

C.R.S. 13.25-125.5. Libel and slander – self publication. 13-6-106 (2002).

No action for libel and slander may be brought or maintained unless the party charged with such defamation has published, either orally or in writing, the defamatory statement to a person other than the person making the allegation of libel and slander. Self-publication, either orally or in writing, of the defamatory statement to a third person by the person making such allegation shall not give rise to a claim for libel or slander against the person who originally communicated the defamatory statement.

C.R.S. 13-25-131 (1999). Civil actions – sexual assault – certain evidence presumed irrelevant.

(1) In any civil action for damages by an alleged victim which alleges damages resulting from a sexual assault on a client by any person who enters into a professional-client relationship that permits professional physical access to the client's person or the **opportunity to affect or influence the thought processes or emotions of such client, including, but not limited to**, actions for professional malpractice or assault and battery, evidence of specific instances of the victim's prior or subsequent sexual conduct, opinion evidence of the victim's sexual conduct, and reputation evidence of the victim's sexual conduct shall be presumed to be irrelevant, except as provided in subsections (2) and (4) of this section. The persons to whom this subsection (1) applies in a civil action against such persons shall include any psychotherapist as defined in section 18-3-405.5, C.R.S., and medical… (1) shall also apply in a civil action against a parent or other person, in a position of trust, power, or

authority over any child or other person, in a civil action by or on behalf of such other person.

C.R.S. 18-1-602 (1999) Behavior of Another.

"(1) A person is legally accountable for the behavior of another if: (b) He acts with the culpable mental state sufficient for the commission of the offense in question and he causes an innocent person to engage in such behavior. (2) 'innocent person' includes any person not guilty of the offense in question, despite his behavior, because of duress, legal incapacity or exemption, or unawareness of the criminal nature of the conduct in question or of the defendant's criminal purpose..."

C.R.S. 18-1-603 (1999) Complicity.

"A person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the commission of the offense, he or she aids, abets, advises, or encourages the other person in planning or committing the offense."

C.R.S. 18-1-606 (2002) Criminal Liability of Corporations

(1) A corporation is guilty of an offense if:

(a) The conduct constituting the offense consists of an omission to discharge a specific duty of affirmative performance imposed on corporations by law; or

(b) The conduct constituting the offense is engaged in, authorized, solicited, requested, commanded, or knowingly tolerated by the board of directors or by a high managerial agent acting within the scope of his employment or in behalf of the corporation.

(2) As used in this section, "agent" means any director, officer, or employee of a corporation, or any other person who is authorized to act in behalf of the corporation, and "high managerial agent" means an officer of a corporation or any other agent in a position of comparable authority with respect to the formulation of corporate policy or the supervision in a managerial capacity of subordinate employees.

(3) Every offense committed by a corporation prior to July 1, 1985, which would be a felony if committed by an individual shall subject the corporation to the payment of a fine of not less than one thousand dollars nor more than fifteen thousand dollars. For such offenses committed on or after July 1, 1985, the corporation shall be subject to the payment of a fine within the presumptive ranges authorized by section 18-1.3-401 (1) (a) (III). Every offense committed by a corporation which would be a misdemeanor or petty offense if committed by an individual shall subject the corporation to the payment of a fine within the minimum and maximum fines authorized by sections 18-1.3-501 and 18-1.3-503 for the particular offense of which the corporation is convicted.
History

C.R.S. 18-1-709 (2002) Entrapment.

The commission of acts which would otherwise constitute an offense is not criminal if the defendant engaged in the proscribed conduct because he was induced to do so by a law

enforcement official or other person acting under his direction, seeking to obtain evidence for the purpose of prosecution, and the methods used to obtain that evidence were such as to create a substantial risk that the acts would be committed by a person who, but for such inducement, would not have conceived of or engaged in conduct of the sort induced. Merely affording a person an opportunity to commit an offense is not entrapment even though representations or inducements calculated to overcome the offender's fear of detection are used.

C.R.S. 18-2-201 (2002) Conspiracy.

(1) A person commits conspiracy to commit a crime if, with the intent to promote or facilitate its commission, he agrees with another person or persons that they, or one or more of them, will engage in conduct which constitutes a crime or an attempt to commit a crime, or he agrees to aid the other person or persons in the planning or commission of a crime or of an attempt to commit such crime.

(2) No person may be convicted of conspiracy to commit a crime, unless an overt act in pursuance of that conspiracy is proved to have been done by him or by a person with whom he conspired.

(3) If a person knows that one with whom he conspires to commit a crime has conspired with another person or persons to commit the same crime, he is guilty of conspiring to commit a crime with the other person or persons, whether or not he knows their identity.

(4) If a person conspires to commit a number of crimes, he is guilty of only one conspiracy so long as such multiple crimes are part of a single criminal episode.

(4.5) Conspiracy to commit any crime for which a court is required to sentence a defendant for a crime of violence in accordance with section 18-1.3-406 is itself a crime of violence for the purposes of that section.

(5) If a person conspires to commit a felony which is defined by any statute other than one contained in this title and for which conspiracy no penalty is specifically provided, he is guilty of a class 6 felony. If a person conspires to commit a misdemeanor which is defined by any statute other than one contained in this title and for which conspiracy no penalty is specifically provided, he is guilty of a class 3 misdemeanor.

C.R.S. 18-2-206 (2002) Penalties for criminal conspiracy – when convictions barred.

(1) Conspiracy to commit a class 1 felony is a class 2 felony; conspiracy to commit a class 2 felony is a class 3 felony; conspiracy to commit a class 4 felony; conspiracy to commit a class 5 or 6 felony is a class 6 felony.

(2) A person may not be convicted of conspiracy to commit an offense if he is acquitted of the offense which is the object of the conspiracy where the sole evidence of conspiracy is the evidence establishing the commission of the offense which is the object of the conspiracy.

(3) If the particular conduct charged to constitute a criminal conspiracy is so inherently unlikely to result or culminate in the commission of a crime that neither that conduct nor the offender presents a public danger warranting the grading of the offense under this section, the court may enter judgment and impose sentence for a crime of a lessor class or, in extreme cases, may dismiss the prosecution.

(4) Conspiracy to commit a class 1 misdemeanor is a class 2 misdemeanor.

(5) Conspiracy to commit a misdemeanor other than a class 1 misdemeanor is a class 3 misdemeanor.

(6) Conspiracy to commit a petty offense is a crime of the same class as the offense itself.

C.R.S. 18-3-207 (2002) Criminal extortion - aggravated extortion.

(1) A person commits criminal extortion if:

(a) The person, without legal authority and with the intent to induce another person against that other person's will to perform an act or to refrain from performing a lawful act, makes a substantial threat to confine or restrain, cause economic hardship or bodily injury to, or damage the property or reputation of, the threatened person or another person; and

(b) The person threatens to cause the results described in paragraph (a) of this subsection (1) by:
(I) Performing or causing an unlawful act to be performed; or
(II) Invoking action by a third party, including but not limited to, the state or any of its political subdivisions, whose interests are not substantially related to the interests pursued by the person making the threat.

(2) A person commits aggravated criminal extortion if, in addition to the acts described in subsection (1) of this section, the person threatens to cause the results described in paragraph (a) of subsection (1) of this section by means of chemical, biological, or harmful radioactive agents, weapons, or poison.

(3) For the purposes of this section, "substantial threat" means a threat that is reasonably likely to induce a belief that the threat will be carried out and is one that threatens that significant confinement, restraint, injury, or damage will occur.

(4) Criminal extortion, as described in subsection (1) of this section, is a class 4 felony. Aggravated criminal extortion, as described in subsection (2) of this section, is a class 3 felony.

C.R.S. 24-5-101 (2002) Effect of criminal conviction on employment rights.

Except as otherwise provided by section 4 of article XII of the state constitution, and except for the certification and revocation of certification of peace officers as provided in section 24-31-305, and except for the employment of personnel in positions involving direct contact with vulnerable persons as specified in section 27-1-110, C.R.S., the fact that a person has been convicted of a felony or other offense involving moral turpitude shall not, in and of itself, prevent the person from applying for and obtaining public employment or from applying for and receiving a license, certification, permit, or registration required by the laws of this state to follow any business, occupation, or profession. Whenever any state or local agency is required to make a finding that an applicant for a license, certification, permit, or registration is a person of good moral character as a condition to the issuance thereof, the fact that such applicant has, at some time prior thereto, been convicted of a felony or other offense involving moral turpitude, and pertinent circumstances connected with such conviction, shall be given consideration in determining whether, in fact, the applicant is a person of good moral character at the time of the application. The intent of this section is to expand

employment opportunities for persons who, notwithstanding that fact of conviction of an offense, have been rehabilitated and are ready to accept the responsibilities of a law-abiding and productive member of society.

35 P Pennsylvania Statutes (P.S.)

35 P.S. § 780-112 Records of distribution of controlled substances

(a) Every person who sells or otherwise distributes controlled substances, shall keep records of all purchases or other receipt and sales or other distribution of such substances for two years from the date of purchase or sale. Such records shall include the name and address of the person from whom purchased or otherwise received or to whom sold or otherwise distributed, the date of purchase or receipt or sale or distribution, and the quantity involved: Provided, however, That this subsection shall not apply to a practitioner who dispenses controlled substances to his patients, unless the practitioner is regularly engaged in charging his patients, whether separately or together with charges for other professional services, for substances so dispensed.

(b) Every practitioner licensed by law to administer, dispense or distribute controlled substances shall keep a record of all such substances administered, dispensed or distributed by him, showing the date, the name and address of the patient, and in the case of a veterinarian, the name and address of the owners of the animal to whom such substances are dispensed or distributed. Such record shall be kept two years from the date of administering, dispensing or distributing such substance and shall be open for inspection by the proper authorities.

(c) Persons registered or licensed to manufacture or distribute or dispense a controlled substance, other drug or device under this act shall keep records and maintain inventories in conformity with the record-keeping, order form and inventory requirements of Federal law and with any additional regulations the secretary issues. Controlled substances in Schedules I and II [1] shall be distributed by a registrant to another registrant only pursuant to an order form.

35 P.S. § 780-113. Prohibited acts; penalties

(a) The following acts and the causing thereof within the Commonwealth are hereby prohibited:

(1) The manufacture, sale or delivery, holding, offering for sale, or possession of any controlled substance, other drug, device or cosmetic that is adulterated or misbranded.

(2) – (13) Not applicable

(14) The administration, dispensing, delivery, gift or prescription of any controlled substance by any practioner or professional assistant under the practitioner's direction and supervision unless done (i) in good faith in the course of his professional practice; (ii) within the scope of the patient relationship; (iii) in accordance with treatment principles accepted by a responsible segment of the medical profession.

(15) – (20) Not applicable

(21) The refusal or failure to make, keep or furnish any record, notification, order form, statement, invoice or information required under this act.

(22) – (27) Not applicable

(28) The furnishing of false or fraudulent material information in, or omission of any material information from any application, report, or other document required to be kept or filed under this act, or any record required to be kept by this act.

Vermont Statutes (V.S.)

18 V.S. § 7614 et. seq. (2000). Psychiatric examination.

As soon as practicable after notice of the commencement of proceedings is given, the court on its own motion of the proposed patient or his attorney or the state of Vermont shall authorize examination of the proposed patient by a psychiatrist other than the physician making the original certification. The examination and subsequent report or reports shall be paid for by the state of Vermont. The physician shall report his finding to the party requesting the report or to the court if it requested the examination.

Revised Code of Washington (RCW)

RCW 9.02.120 Unauthorized abortions – Penalty

Unless authorized by RCW 9.02.110, any person who performs an abortion on another person shall be guilty of a class C felony punishable under chapter 9A.20 RCW. Enacted by Laws 1992, ch. 1, § 4 (Initiative Measure No. 120, approved Nov. 5, 1991), eff. Dec. 5, 1991.

RCW 9.02.130. Defenses to prosecution

The good faith judgment of a physician as to viability of the fetus or as to the risk to life or health of a woman and the good faith judgment of a health care provider as to the duration of pregnancy shall be a defense in any proceeding in which a violation of this chapter is an issue.

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